Delek US Holdings, Inc.
Form 10-Q
November 06, 2009

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
Form 10-Q

(Mark One)

þ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2009

OR

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission file number 001-32868

DELEK US HOLDINGS, INC.

(Exact name of registrant as specified in its charter)

Delaware	**52-2319066**
(State or other jurisdiction of Incorporation or organization)	*(I.R.S. Employer Identification No.)*
7102 Commerce Way Brentwood, Tennessee	**37027**
(Address of principal executive offices)	*(Zip Code)*

(615) 771-6701

(Registrant s telephone number, including area code)

Not Applicable

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes þ No o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes o No o

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

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes o No þ

At November 2, 2009, there were 53,700,570 shares of common stock, $0.01 par value, outstanding.

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Part I.
FINANCIAL INFORMATION

Item 1. ***Financial Statements***

Delek US Holdings, Inc.
Condensed Consolidated Balance Sheets (Unaudited)

	September 30, 2009	December 31, 2008
	(In millions, except share and per share data)	
ASSETS		
Current assets:		
Cash and cash equivalents	$ 107.7	$ 15.3
Accounts receivable	75.6	45.4
Inventory	120.1	80.2
Assets held for sale	7.7	20.9
Other current assets	40.1	38.8
Total current assets	351.2	200.6
Property, plant and equipment:		
Property, plant and equipment	848.2	708.9
Less: accumulated depreciation	(158.0)	(127.2)
Property, plant and equipment, net	690.2	581.7
Goodwill	77.5	77.5
Other intangibles, net	9.1	10.0
Minority investment	131.6	131.6
Other non-current assets	7.0	15.8
Total assets	$ 1,266.6	$ 1,017.2
LIABILITIES AND SHAREHOLDERS EQUITY		
Current liabilities:		
Accounts payable	$ 201.9	$ 68.0
Current portion of long-term debt and capital lease obligations	39.4	68.9
Note payable	15.0	15.0
Liabilities associated with assets held for sale	0.2	0.2
Accrued expenses and other current liabilities	46.3	34.1
Total current liabilities	302.8	186.2
Non-current liabilities:		
Long-term debt and capital lease obligations, net of current portion	287.1	202.1
Environmental liabilities, net of current portion	3.8	5.2
Asset retirement obligations	6.9	6.6
Deferred tax liabilities	100.7	71.1
Other non-current liabilities	13.1	12.2

Total non-current liabilities		411.6		297.2
Shareholders equity:				
Preferred stock, $0.01 par value, 10,000,000 shares authorized, no shares issued and outstanding				
Common stock, $0.01 par value, 110,000,000 shares authorized, 53,700,570 and 53,682,070 shares issued and outstanding at September 30, 2009 and December 31, 2008, respectively		0.5		0.5
Additional paid-in capital		280.1		277.8
Accumulated other comprehensive loss		(0.2)		(0.6)
Retained earnings		271.8		256.1
Total shareholders equity		552.2		533.8
Total liabilities and shareholders equity	$	1,266.6	$	1,017.2

See accompanying notes to the condensed consolidated financial statements

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Delek US Holdings, Inc.
Condensed Consolidated Statements of Operations (Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
	(In millions, except share and per share data)			
Net sales	$ 817.9	$ 1,402.5	$ 1,766.1	$ 3,957.1
Operating costs and expenses:				
Cost of goods sold	745.1	1,271.2	1,562.9	3,654.7
Operating expenses	55.6	64.0	154.8	179.8
Insurance proceeds business interruption	(6.0)		(64.1)	
Property damage proceeds, net	(5.8)		(24.7)	
General and administrative expenses	15.4	16.3	45.6	41.9
Depreciation and amortization	13.9	10.3	36.6	28.1
Loss (gain) on sale of assets	1.9	(4.0)	1.9	(6.9)
Total operating costs and expenses	820.1	1,357.8	1,713.0	3,897.6
Operating income	(2.2)	44.7	53.1	59.5
Interest expense	6.8	6.5	17.2	18.2
Interest income		(0.4)	(0.1)	(2.0)
Loss from equity method investment		0.8		7.9
Other expenses (income), net	(1.4)	0.1	0.6	0.8
Total non-operating expenses	5.4	7.0	17.7	24.9
Income (loss) from continuing operations before income tax expense (benefit)	(7.6)	37.7	35.4	34.6
Income tax expense (benefit)	(2.5)	13.3	12.6	12.1
Income (loss) from continuing operations	(5.1)	24.4	22.8	22.5
Income (loss) from discontinued operations, net of tax	0.3	1.0	(1.0)	1.9
Net income (loss)	$ (4.8)	$ 25.4	$ 21.8	$ 24.4
Basic earnings per share:				
Income (loss) from continuing operations	$ (0.10)	$ 0.45	$ 0.43	$ 0.41
Income (loss) from discontinued operations	0.01	0.02	(0.02)	0.04
Total basic earnings per share	$ (0.09)	$ 0.47	$ 0.41	$ 0.45
Diluted earnings per share:				
Income (loss) from continuing operations	$ (0.10)	$ 0.45	$ 0.42	$ 0.41
Income (loss) from discontinued operations	0.01	0.02	(0.02)	0.04

Total diluted earnings per share	$ (0.09)	$ 0.47	$ 0.40	$ 0.45
Weighted average common shares outstanding:				
Basic	53,700,497	53,680,570	53,690,793	53,673,290
Diluted	53,700,497	54,380,835	54,449,404	54,414,106
Dividends declared per common share outstanding	$ 0.0375	$ 0.0375	$ 0.1125	$ 0.1125

See accompanying notes to the condensed consolidated financial statements

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Delek US Holdings, Inc.
Condensed Consolidated Statements of Cash Flows (Unaudited)

	Nine Months Ended September 30,	
	2009	2008
	(In millions, except per share data)	
Cash flows from operating activities:		
Net income	$ 21.8	$ 24.4
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	36.6	28.1
Amortization of deferred financing costs	4.8	3.4
Accretion of asset retirement obligations	0.3	0.6
Deferred income taxes	30.1	(5.0)
Gain on involuntary conversion of assets	(24.7)	
Loss from equity method investment		7.9
Loss on interest rate derivative instruments		0.8
Loss on sale of investments	0.6	
Loss (gain) on sale of assets	1.9	(6.9)
Loss on sale of assets held for sale	1.1	
Stock-based compensation expense	2.3	2.5
Changes in assets and liabilities, net of acquisitions:		
Accounts receivable, net	(30.2)	(29.2)
Inventories and other current assets	(42.1)	23.4
Accounts payable and other current liabilities	146.1	57.8
Non-current assets and liabilities, net	2.7	(9.4)
Net cash provided by operating activities	151.3	98.4
Cash flows from investing activities:		
Purchases of short-term investments		(472.8)
Sales of short-term investments	5.0	517.2
Expenditures to rebuild refinery	(11.4)	
Property damage insurance proceeds	36.1	
Purchases of property, plant and equipment	(153.6)	(90.9)
Proceeds from sale of property, plant and equipment	9.5	8.3
Proceeds from sale of assets held for sale	9.3	
Net cash used in investing activities	(105.1)	(38.2)
Cash flows from financing activities:		
Proceeds from revolvers	377.6	730.0
Payments on revolvers	(323.3)	(794.3)
Proceeds from other debt instruments	65.0	21.0
Payments on debt and capital lease obligations	(63.8)	(35.6)
Dividends paid	(6.1)	(6.0)
Deferred financing costs paid	(3.2)	(0.9)

Net cash provided by (used in) financing activities		46.2		(85.8)
Net increase (decrease) in cash and cash equivalents		92.4		(25.6)
Cash and cash equivalents at the beginning of the period		15.3		105.0
Cash and cash equivalents at the end of the period	$	107.7	$	79.4
Supplemental disclosures of cash flow information:				
Cash paid during the period for:				
Interest, net of capitalized interest of $1.3 and $2.9 in the 2009 and 2008 periods, respectively	$	11.4	$	14.9
Income taxes	$		$	0.2

See accompanying notes to the condensed consolidated financial statements

Delek US Holdings, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited)

1. General

Delek US Holdings, Inc. (Delek, we, our or us) is the sole shareholder of MAPCO Express, Inc. (Express), MAPCO Fleet, Inc. (Fleet), Delek Refining, Inc. (Refining), Delek Finance, Inc. (Finance) and Delek Marketing & Supply, Inc. (Marketing) (collectively, the Subsidiaries).

We are a Delaware corporation formed in connection with our acquisition in May 2001 of 198 retail fuel and convenience stores from a subsidiary of the Williams Companies. Since then, we have completed several other acquisitions of retail fuel and convenience stores. In April 2005, we expanded our scope of operations to include complementary petroleum refining and wholesale and distribution businesses by acquiring a refinery in Tyler, Texas. We initiated operations of our marketing segment in August 2006 with the purchase of assets from Pride Companies LP and affiliates (Pride Acquisition). Delek and Express were incorporated during April 2001 in the State of Delaware. Fleet, Refining, Finance, and Marketing were incorporated in the State of Delaware during January 2004, February 2005, April 2005 and June 2006, respectively.

Delek is listed on the New York Stock Exchange (NYSE) under the symbol DK. As of September 30, 2009, 73.8% of our outstanding shares are beneficially owned by Delek Group Ltd. (Delek Group) located in Natanya, Israel.

2. Accounting Policies

Basis of Presentation

The condensed consolidated financial statements include the accounts of Delek and its wholly-owned subsidiaries. Certain information and footnote disclosures normally included in annual financial statements prepared in accordance with U.S. generally accepted accounting principles (GAAP) have been condensed or omitted, although management believes that the disclosures herein are adequate to make the financial information presented not misleading. Our unaudited condensed consolidated financial statements have been prepared in conformity with GAAP applied on a consistent basis with those of the annual audited financial statements included in our Annual Report on Form 10-K and in accordance with the rules and regulations of the Securities and Exchange Commission (SEC). These unaudited, condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and the notes thereto for the year ended December 31, 2008 included in our Annual Report on Form 10-K filed with the SEC on March 9, 2009.

In the opinion of management, all adjustments necessary for a fair presentation of the financial position and the results of operations for the interim periods have been included. All significant intercompany transactions and account balances have been eliminated in consolidation. All adjustments are of a normal, recurring nature. Operating results for the interim period should not be viewed as representative of results that may be expected for any future interim period or for the full year.

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Segment Reporting

Delek is a diversified energy business focused on petroleum refining, wholesale sales of refined products and retail marketing. Management views operating results in three segments: refining, marketing and retail. The refining segment owns a high conversion, independent refinery in Tyler, Texas. The marketing segment sells refined products on a wholesale basis in west Texas through company-owned and third-party operated terminals and crude oil pipelines and owns certain refined product and crude oil storage facilities. The retail segment markets gasoline, diesel and other refined petroleum products, and convenience merchandise through a network of 443 company-operated retail fuel and convenience stores. Additionally, we operate 9 retail fuel and convenience stores that are classified as held for sale and included as discontinued operations as of September 30, 2009. Segment reporting is more fully discussed in Note 9.

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Discontinued Operations

In December 2008, we met the requirements under the provisions of Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 360, *Property, Plant and Equipment* (ASC 360), to classify our retail segment s Virginia division (Virginia stores) as a group of assets held for sale. The fair value assessment of these assets, performed in the fourth quarter of 2008, did not result in an impairment. We have ceased depreciation of these assets. We sold 12 of the 36 Virginia stores during December 2008 and an additional 15 of the Virginia stores during the nine months ended September 30, 2009. We expect that we will dispose of the remaining stores in 2009.

Reclassifications

Having classified the Virginia stores as assets held for sale, the condensed consolidated balance sheets for all periods presented have been reclassified to reflect net assets held for sale and net liabilities associated with assets held for sale. The statements of operations for all periods presented have been reclassified to reflect the results of the Virginia stores as income from discontinued operations, net of taxes.

Cash and Cash Equivalents

Delek maintains cash and cash equivalents in accounts with large, national financial institutions and retains nominal amounts of cash at the convenience store locations as petty cash. All highly liquid investments purchased with an original maturity of three months or less are considered to be cash equivalents. As of September 30, 2009, these cash equivalents consisted primarily of overnight investments in U.S. Government obligations and bank repurchase obligations collateralized by U.S. Government obligations.

Investments

We have owned an investment in auction rate securities, valued at $5.6 million, since the auction rate market began to fail in 2008. During 2008, because of these failed auctions, we reclassified our auction rate investment from short-term investments to other non-current assets. The $5.6 million investment we held in auction rate securities had an underlying investment in a single series of preferred stock of Bank of America.

In June 2009, Bank of America made an offer to exchange shares of common stock of Bank of America for certain series of its preferred shares that were then outstanding. On June 22, 2009, we redeemed our auction rate trust certificates for Bank of America s Series 5, floating rate, non-cumulative preferred stock, which we exchanged on June 23, 2009, for 286,496 shares of common stock of Bank of America. Due to the consideration paid for the Bank of America preferred shares under the terms of the exchange offer, we recognized a loss of approximately $2.0 million on this exchange, which is included in other expenses on the accompanying condensed consolidated statement of operations.

However, in September 2009, we sold the 286,496 shares of Bank of America common stock received in the exchange, and recognized a gain of $1.4 million relating to the sale. For the three and nine months ended September 30, 2009, we recognized gains (losses) of $1.4 million and ($0.6) million, respectively, which are included in other expenses on the accompanying condensed consolidated statement of operations. Upon the sale of these 286,496 shares, we had no remaining position in auction rate securities or in the capital stock of Bank of America.

Accounts Receivable

Accounts receivable primarily represent receivables related to credit card sales, receivables from vendor promotions and trade receivables generated in the ordinary course of business. All accounts receivable amounts are considered to be fully collectible.

Inventory

Refinery inventory consists of crude oil, refined products and blendstocks which are stated at the lower of cost or market. Cost is determined under the last-in, first-out (LIFO) valuation method. Cost of crude oil, refined product and blendstock inventories in excess of market value are charged to cost of goods sold. Such changes are subject to reversal in subsequent periods, not to exceed LIFO cost, if prices recover.

Marketing inventory consists of refined products which are stated at the lower of cost or market on a first-in, first-out (FIFO) basis.

Retail merchandise inventory consists of gasoline, diesel fuel, other petroleum products, cigarettes, beer, convenience merchandise and food service merchandise. Fuel inventories are stated at the lower of cost or market on a FIFO basis. Non-fuel inventories are stated at estimated cost as determined by the retail inventory method.

Property, Plant and Equipment

Assets acquired by Delek are recorded at estimated fair market value in accordance with the purchase method of accounting as prescribed in ASC 805, *Business Combinations*. Other acquisitions of property and equipment are carried at cost. Betterments, renewals and extraordinary repairs that extend the useful life of the asset are capitalized. Maintenance and repairs are charged to expense as incurred. Delek owns certain fixed assets on leased locations and depreciates these assets and asset improvements over the lesser of management s estimated useful lives of the assets or the remaining lease term.

Depreciation is computed using the straight-line method over management s estimated useful lives of the related assets, which are as follows:

Automobiles	3-5 years
Computer equipment and software	3-10 years
Refinery turnaround costs	4 years
Furniture and fixtures	5-15 years
Retail store equipment	7-15 years
Asset retirement obligation assets	15-40 years
Refinery machinery and equipment	15-40 years
Petroleum and other site (POS) improvements	8-40 years
Building and building improvements	40 years

Property, plant and equipment and accumulated depreciation by reporting segment as of and for the three and nine months ended September 30, 2009 are as follows (in millions):

	Refining	Marketing	Retail	Corporate and Other	Consolidated
Property, plant and equipment	$ 421.0	$ 35.0	$ 390.2	$ 2.0	$ 848.2
Less: Accumulated depreciation	(47.4)	(5.4)	(105.1)	(0.1)	(158.0)
Property, plant and equipment, net	$ 373.6	$ 29.6	$ 285.1	$ 1.9	$ 690.2
Depreciation expense for the three months ended September 30, 2009	$ 7.2	$ 0.4	$ 5.9	$	$ 13.5
Depreciation expense for the nine months ended September 30, 2009	$ 16.9	$ 1.3	$ 17.4	$	$ 35.6

In accordance with ASC 360, Delek evaluates the realizability of property, plant and equipment as events occur that might indicate potential impairment.

Capitalized Interest

During the three and nine months ended September 30, 2009, Delek had several ongoing capital construction projects in the refining segment and construction related to a new store being built and several re-image projects in the retail segment. The refining segment capitalized interest of $0.1 million and $1.3 million, respectively, for the three and nine months ended September 30, 2009 and $0.5 million and $2.7 million, respectively, for the three and nine months ended September 30, 2008. The retail segment capitalized a nominal amount of interest for both the three and nine months ended September 30, 2009 and a nominal amount and $0.2 million for the three and nine months ended September 30, 2008, respectively. There was no interest capitalized by the marketing segment for the three or nine

months ended September 30, 2009 or 2008.

Refinery Turnaround Costs

Refinery turnaround costs are incurred in connection with planned shutdowns and inspections of the refinery s major units to perform necessary repairs and replacements. Refinery turnaround costs are deferred when incurred, classified as property, plant and

equipment and amortized on a straight-line basis over that period of time estimated to lapse until the next planned turnaround occurs. Refinery turnaround costs include, among other things, the cost to repair, restore, refurbish or replace refinery equipment such as vessels, tanks, reactors, piping, rotating equipment, instrumentation, electrical equipment, heat exchangers and fired heaters. During the second quarter of 2009, we successfully completed a major turnaround on all of the units at the refinery.

Goodwill and Potential Impairment

Goodwill in an acquisition represents the excess of the aggregate purchase price over the fair value of the identifiable net assets. Delek s goodwill, all of which was acquired in various purchase business combinations, is recorded at original fair value and is not amortized. Goodwill is subject to annual assessment to determine if an impairment of value has occurred and Delek performs this review annually in the fourth quarter. We could also be required to evaluate our goodwill if, prior to our annual assessment, we experience disruptions in our business, have unexpected significant declines in operating results, or sustain a permanent market capitalization decline. No events occurred during the three or nine months ended September 30, 2009 that would require an evaluation of our goodwill. If a reporting unit s carrying amount exceeds its fair value, the impairment assessment leads to the testing of the implied fair value of the reporting unit s goodwill to its carrying amount. If the implied fair value is less than the carrying amount, a goodwill impairment charge is recorded. We do not believe any goodwill impairment existed as of September 30, 2009.

Derivatives

Delek records all derivative financial instruments, including interest rate swap and cap agreements, fuel-related derivatives, over the counter (OTC) future swaps and forward contracts at estimated fair value regardless of their intended use in accordance with the provisions of ASC 815, *Derivatives and Hedging* (ASC 815). Changes in the fair value of the derivative instruments are recognized in operations, unless we elect to apply the hedging treatment permitted under the provisions of ASC 815 allowing such changes to be classified as other comprehensive income. We validate the fair value of all derivative financial instruments on a monthly basis, utilizing valuations from third party financial and brokerage institutions. On a regular basis, Delek enters into commodity contracts with counterparties for crude oil and various finished products. These contracts usually qualify for the normal purchase / normal sale exemption under the standard and, as such, are not measured at fair value.

Delek s policy under the guidance of ASC 815-10-45, *Derivatives and Hedging Other Presentation Matters* (ASC 815-10-45), is to net the fair value amounts recognized for multiple derivative instruments executed with the same counterparty and offset these values against the cash collateral arising from these derivative positions.

Fair Value of Financial Instruments

The fair values of financial instruments are estimated based upon current market conditions and quoted market prices for the same or similar instruments. Management estimates that the carrying value approximates fair value for all of Delek s assets and liabilities that fall under the scope of ASC 825, *Financial Instruments* (ASC 825).

Delek applies the provisions of ASC 820, *Fair Value Measurements and Disclosure* (ASC 820) in its presentation and disclosures regarding fair value, which pertain to certain financial assets and liabilities measured at fair value in the statement of position on a recurring basis. ASC 820 defines fair value, establishes a framework for measuring fair value and expands disclosures about such measurements that are permitted or required under other accounting pronouncements. See Note 10 for further discussion.

Delek also applies the provisions of ASC 825 as it pertains to the fair value option. This standard permits the election to carry financial instruments and certain other items similar to financial instruments at fair value on the balance sheet, with all changes in fair value reported in earnings. By electing the fair value option in conjunction with a derivative, an entity can achieve an accounting result similar to a fair value hedge without having to comply with complex hedge accounting rules. As of September 30, 2009, we did not make the fair value election for any financial instruments not already carried at fair value in accordance with other standards.

Self-Insurance Reserves

Delek is primarily self-insured for employee medical, workers compensation and general liability costs, with varying limits of per claim and aggregate stop loss insurance coverage in amounts determined reasonable by management. We maintain an accrual for these costs based on claims filed and an estimate of claims incurred but not

reported. Differences between actual settlements and recorded accruals are recorded in the period identified.

Vendor Discounts and Deferred Revenue

Delek receives cash discounts or cash payments from certain vendors related to product promotions based upon factors such as quantities purchased, quantities sold, merchandise exclusivity, store space and various other factors. In accordance with ASC 605-50, *Revenue Recognition Customer Payments and Incentives*, we recognize these amounts as a reduction of inventory until the products are sold, at which time the amounts are reflected as a reduction in cost of goods sold. Certain of these amounts are received from vendors related to agreements covering several periods. These amounts are initially recorded as deferred revenue, are reclassified as a reduction in inventory upon receipt of the products, and are subsequently recognized as a reduction of cost of goods sold as the products are sold.

Delek also receives advance payments from certain vendors relating to non-inventory agreements. These amounts are recorded as deferred revenue and are subsequently recognized as a reduction of cost of goods sold as earned.

Environmental Expenditures

It is Delek s policy to accrue environmental and clean-up related costs of a non-capital nature when it is both probable that a liability has been incurred and the amount can be reasonably estimated. Environmental liabilities represent the current estimated costs to investigate and remediate contamination at our properties. This estimate is based on internal and third-party assessments of the extent of the contamination, the selected remediation technology and review of applicable environmental regulations, typically considering estimated activities and costs for the next 15 years, unless a specific longer range estimate is practicable. Accruals for estimated costs from environmental remediation obligations generally are recognized no later than completion of the remedial feasibility study and include, but are not limited to, costs to perform remedial actions and costs of machinery and equipment that are dedicated to the remedial actions and that do not have an alternative use. Such accruals are adjusted as further information develops or circumstances change. We discount environmental liabilities to their present value if the payments are fixed and determinable. Expenditures for equipment necessary for environmental issues relating to ongoing operations are capitalized.

Asset Retirement Obligations

Delek recognizes liabilities which represent the fair value of a legal obligation to perform asset retirement activities, including those that are conditioned on a future event when the amount can be reasonably estimated. In the retail segment, these obligations relate to the net present value of estimated costs to remove underground storage tanks at owned and leased retail sites which are legally required under the applicable leases. The asset retirement obligation for storage tank removal on retail sites is being accreted over the expected life of the owned retail site or the average retail site lease term. In the refining segment, these obligations relate to the required disposal of waste in certain storage tanks, asbestos abatement at an identified location and other estimated costs that would be legally required upon final closure of the refinery. In the marketing segment, these obligations relate to the required cleanout of the pipeline and terminal tanks, and removal of certain above-grade portions of the pipeline situated on right-of-way property.

The reconciliation of the beginning and ending carrying amounts of asset retirement obligations for the nine months ended September 30, 2009 and for the year ended December 31, 2008 is as follows (in millions):

	Nine Months Ended September 30, 2009	Year Ended December 31, 2008
Beginning balance	$ 6.6	$ 5.3
Additional liabilities[1]		0.7
Liabilities settled		(0.1)
Accretion expense	0.3	0.7
Ending balance	$ 6.9	$ 6.6

(1) This amount represents management s recognition of an asset retirement obligation associated with additional underground storage tanks at various retail stores which previously was not assessed as required.

In order to determine fair value, management must make certain estimates and assumptions including, among other things, projected cash flows, a credit-adjusted risk-free rate and an assessment of market conditions that could significantly impact the estimated fair value of the asset retirement obligation.

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Revenue Recognition

Revenues for products sold are recorded at the point of sale upon delivery of product, which is the point at which title to the product is transferred, and when payment has either been received or collection is reasonably assured.

Delek derives service revenue from the sale of lottery tickets, money orders, car washes and other ancillary product and service offerings. Service revenue and related costs are recorded at gross amounts and net amounts, as appropriate, in accordance with the provisions of ASC 605-45, *Revenue Recognition Principal Agent Considerations* (ASC 605-45). We record service revenue and related costs at gross amounts when Delek is the primary obligor, is subject to inventory risk, has latitude in establishing prices and selecting suppliers, influences product or service specifications, or has several but not all of these indicators. When Delek is not the primary obligor and does not possess other indicators of gross reporting as discussed previously, we record net service revenue.

Cost of Goods Sold and Operating Expenses

For the retail segment, cost of goods sold comprises the costs of specific products sold. Operating expenses include costs such as wages of employees at the stores, lease and utilities expense for the stores, credit card interchange transaction charges and other costs of operating the stores. For the refining segment, cost of goods sold includes all the costs of crude oil, feedstocks and external costs. Operating expenses include the costs associated with the actual operations of the refinery. For the marketing segment, cost of goods sold includes all costs of refined products, additives and related transportation. Operating expenses include the costs associated with the actual operation of owned terminals, terminaling expense at third-party locations and pipeline maintenance costs.

Sales, Use and Excise Taxes

Delek s policy is to exclude sales, use and excise taxes from revenue when we are an agent of the taxing authority, in accordance with ASC 605-45.

Deferred Financing Costs

Deferred financing costs represent expenses related to issuing our long-term debt and obtaining our lines of credit. These amounts are amortized over the remaining term of the respective financing and are included in interest expense. See Note 7 for further information.

Advertising Costs

Delek expenses advertising costs as the advertising space is utilized. Advertising expense for the three and nine months ended September 30, 2009 was $0.9 million and $2.6 million, respectively, and was $0.5 million and $1.7 million, respectively, for the three and nine months ended September 30, 2008.

Operating Leases

Delek leases land and buildings under various operating lease arrangements, most of which provide the option, after the initial lease term, to renew the leases. Some of these lease arrangements include fixed rental rate increases, while others include rental rate increases based upon such factors as changes, if any, in defined inflationary indices.

In accordance with ASC 840-20, *Leases Operating Leases*, for all leases that include fixed rental rate increases, Delek calculates the total rent expense for the entire lease period, considering renewals for all periods for which failure to renew the lease imposes economic penalty, and records rental expense on a straight-line basis in the accompanying condensed consolidated statements of operations.

Income Taxes

Income taxes are accounted for under the provisions of ASC 740, *Income Taxes* (ASC 740). This statement generally requires Delek to record deferred income taxes for the differences between the book and tax bases of its assets and liabilities, which are measured using enacted tax rates and laws that will be in effect when the differences are expected to reverse. Deferred income tax expense or benefit represents the net change during the year in our deferred income tax assets and liabilities.

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ASC 740 also prescribes a comprehensive model for how companies should recognize, measure, present and disclose in their financial statements uncertain tax positions taken or expected to be taken on a tax return and prescribes the minimum recognition threshold a tax position is required to meet before being recognized in the financial statements. Finally, ASC 740 requires an annual tabular rollforward of unrecognized tax benefits.

Delek files a consolidated U.S. federal income tax return, as well as income tax returns in various state jurisdictions. Delek is no longer subject to U.S. federal income tax examinations by tax authorities for years before 2006 or state and local income tax examinations by tax authorities for the years before 2004. The Internal Revenue Service (IRS) has examined Delek s income tax returns through 2006.

Delek recognizes accrued interest and penalties related to unrecognized tax benefits as an adjustment to the current provision for income taxes. Interest of $0.2 and $0.3 million was recognized related to unrecognized tax benefits during the three and nine months ended September 30, 2009, respectively. Interest of $0.2 million was recognized related to unrecognized tax benefits during both the three and nine months ended September 30, 2008.

Earnings Per Share

Basic and diluted earnings per share (EPS) are computed by dividing net income by the weighted average common shares outstanding. The common shares used to compute Delek s basic and diluted earnings per share are as follows:

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2009	**2008**	**2009**	**2008**
Weighted average common shares outstanding	53,700,497	53,680,570	53,690,793	53,673,290
Dilutive effect of equity instruments		700,265	758,611	740,816
Weighted average common shares outstanding, assuming dilution	53,700,497	54,380,835	54,449,404	54,414,106

Outstanding stock options totaling 3,508,137 and 3,434,262 common shares were excluded from the diluted earnings per share calculation for the three and nine months ended September 30, 2009, respectively. Outstanding stock options totaling 1,807,859 and 1,866,059 common shares were excluded from the diluted earnings per share calculation for the three and nine months ended September 30, 2008, respectively. These share equivalents did not have a dilutive effect under the treasury stock method. Outstanding stock options totaling 723,006 were also excluded from the diluted earnings per share calculation for the three months ended September 30, 2009 because of their anti-dilutive effect due to the net loss for the period.

Shareholders Equity

On August 5, 2009, our Board of Directors voted to declare a quarterly cash dividend of $0.0375 per share, payable on September 16, 2009 to shareholders of record on August 26, 2009.

Stock-Based Compensation

ASC 718, *Compensation Stock Compensation* (ASC 718), requires the use of a valuation model to calculate the fair value of stock-based awards. Delek uses the Black-Scholes-Merton option-pricing model to determine the fair value of stock-based awards as of the date of grant.

Restricted stock units (RSUs) are measured based on the fair market value of the underlying stock on the date of grant. Vested RSUs are not issued until the minimum statutory withholding requirements have been remitted to us for payment to the taxing authority. As a result, the actual number of shares accounted for as issued may be less than the number of RSUs vested, due to any withholding amounts which have not been remitted.

We generally recognize compensation expense related to stock-based awards with graded or cliff vesting on a straight-line basis over the vesting period.

Comprehensive Income

For the three and nine months ended September 30, 2009, comprehensive income includes net income, recognition of unrealized gains on derivative instruments previously designated as cash flow hedges and changes in the fair value

of available for sale investments. For the three and nine months ended September 30, 2008, comprehensive income includes net income and changes in the

fair value of derivative instruments designated as cash flow hedges (in millions).

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2009	2008	2009	2008
Net income (loss)	$ (4.8)	$ 25.4	$ 21.8	$ 24.4
Other comprehensive income (loss):				
Net unrealized (gain) loss on derivative instruments, net of tax expense (benefit) of $0.1 and $5.3 for the three months ended September 30, 2009 and 2008, respectively and $0.3 and $(2.8) for the nine months ended September 30, 2009 and 2008, respectively	0.4	8.8	0.4	(5.4)
Comprehensive (loss) income	$ (4.4)	$ 34.2	$ 22.2	$ 19.0

New Accounting Pronouncements

In May 2009, the FASB issued guidance regarding subsequent events, which is effective for interim or annual periods ending after June 15, 2009 and should be applied prospectively. This guidance is largely similar to the current guidance in the auditing literature with some exceptions which are not intended to result in significant changes in practice. Delek adopted this guidance in May 2009. The adoption did not have an impact on our financial position or results of operations.

In April 2009, the FASB issued guidance on the recognition and presentation of other-than-temporary-impairments and provide some new disclosure requirements for debt securities. This pronouncement is effective for interim and annual periods ending after June 15, 2009, and is applied to existing and new investments held by an entity as of the beginning of the period in which it was adopted. Delek adopted this guidance in April 2009. The adoption did not have an impact on our financial position or results of operations.

In April 2009, the FASB issued guidance on estimating fair value when the volume and activity for an asset or liability have significantly decreased in relation to normal market activity for the asset or liability. This pronouncement also provides additional guidance on circumstances that may indicate a transaction is not orderly. Delek adopted this guidance in April 2009. The adoption did not have an impact on our financial positions or results of operations.

In April 2009, the FASB issued guidance that extends the disclosure requirements regarding the fair value of financial instruments to interim financial statements of publicly traded companies. This pronouncement is effective for interim and annual periods ending after June 15, 2009. Delek adopted this pronouncement in April 2009. The additional disclosures required did not have an impact on our financial position or results of operations.

In December 2007, the FASB issued guidance requiring the acquiring entity in a business combination to recognize the fair value of all the assets acquired and liabilities assumed in the transaction, establishes the acquisition-date as the fair value measurement point, and modifies the disclosure requirements. This guidance applies prospectively to business combinations for which the acquisition date is on or after January 1, 2009. However, accounting for changes in valuation allowances for acquired deferred tax assets and the resolution of uncertain tax positions for prior business combinations will impact tax expense instead of impacting the prior business combination accounting starting January 1, 2009. Delek adopted this guidance effective January 1, 2009 and wrote-off $0.7 million in previously capitalized transaction costs as a result of the adoption. We will also assess the impact of this guidance in the event we enter into a business combination in the future.

Also in December 2007, the FASB issued guidance that changes the classification of non-controlling interests, sometimes called minority interest, in the consolidated financial statements. Additionally, this guidance establishes a single method of accounting for changes in a parent company s ownership interest that do not result in deconsolidation and requires a parent company to recognize a gain or loss when a subsidiary is deconsolidated. This guidance is

effective January 1, 2009, and will be applied prospectively with the exception of the presentation and disclosure requirements which must be applied retrospectively. Delek has no minority interest reporting in its consolidated reporting, therefore adoption of this guidance does not have an impact on our financial position or results of operations.

In March 2008, the FASB issued guidance regarding the disclosure about derivative instruments and hedging activities, which applies to all derivative instruments and non-derivative instruments that are designated and qualify as hedging instruments and related hedged items. The standard requires entities to provide greater transparency through additional disclosures about how and why an entity uses derivative instruments, how derivative instruments and related hedged items are accounted for and its related interpretations, and how derivative instruments and related hedged items affect an entity s financial position, results of operations, and

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cash flows. This guidance is effective for financial statements issued for fiscal years beginning after November 15, 2008. Delek has adopted this guidance effective January 1, 2009. See Note 11 for discussion of our derivative activities.

3. Explosion and Fire at the Tyler, Texas Refinery

On November 20, 2008, an explosion and fire occurred at our 60,000 barrels per day (bpd) refinery in Tyler, Texas. Some individuals have claimed injury and two of our employees died as a result of the event. The event caused damage to both our saturates gas plant and naphtha hydrotreater and resulted in an immediate suspension of our refining operations. We resumed normal operations in May 2009.

Several parallel investigations were commenced following the event, including our own investigation and inspections by the U.S. Department of Labor s Occupational Safety & Health Administration (OSHA), U.S. Chemical Safety and Hazard Investigation Board (CSB) and the U.S. Environmental Protection Agency (EPA). OSHA concluded its inspection in May 2009 and issued citations assessing an aggregate penalty of approximately $0.2 million. We are contesting these citations and do not believe that the outcome will have a material effect on our business. We cannot assure you as to the outcome of the other investigations, including possible civil penalties or other enforcement actions.

We carry insurance coverage of $1.0 billion in combined limits to insure against property damage and business interruption. We are subject to a $5.0 million deductible for property damage insurance and a 45 calendar day waiting period for business interruption insurance. During the three and nine months ended September 30, 2009, we recognized income from insurance proceeds of $12.0 million and $100.2 million, respectively, of which, $6.0 million and $64.1 million, respectively, is included as business interruption proceeds and $6.0 million and $36.1 million, respectively, is included as property damage proceeds. We also recorded expenses of $0.2 million and $11.4 million, respectively, resulting in a net gain of $5.8 million and $24.7 million, respectively, related to property damage proceeds on the accompanying condensed consolidated statement of operations. At December 31, 2008, a receivable of $8.4 million was recorded relating to expected insurance proceeds covering certain losses incurred to limit commodity inventory exposure with the suspension of operations at the refinery. This receivable was reversed in January 2009 upon receipt of insurance monies.

4. Dispositions and Assets Held for Sale

Virginia Stores

As of December 31, 2008, the retail segment s Virginia division met the requirements as enumerated in ASC 360, requiring the separate reporting of assets held for sale. Management committed to a plan to sell the retail segment s Virginia stores and proceeded with efforts to locate buyers. However, until we obtained the necessary amendments to our credit agreements, we were encumbered from taking that action. At the time the credit agreement limitations were lifted in December 2008, we had contracts to sell 28 of the 36 Virginia properties. As of September 30, 2009, we have completed the sale of 27 of those 28 properties, 15 of which were sold during the nine months ended September 30, 2009. We continue our efforts to sell the remaining properties. We received proceeds from the sales of the Virginia stores completed during the nine months ended September 30, 2009, net of expenses, of $9.3 million, recognizing losses on those sales of $1.1 million. In addition to the property, plant and equipment sold, we sold $0.9 million in inventory, at cost, to the buyers during the nine months ended September 30, 2009.

The carrying amounts of the Virginia store assets sold during the nine months ended September 30, 2009 are as follows (in millions):

	For the Nine Months Ended September 30, 2009
Inventory	$ 0.9
Property, plant & equipment, net of accumulated depreciation of $4.0 for the nine months ended September 30, 2009	10.4

	$	11.3

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The carrying amounts of the major classes of assets and liabilities included in assets held for sale and liabilities associated with assets held for sale as of September 30, 2009 and December 31, 2008 are as follows (in millions):

	September 30, 2009	December 31, 2008
Assets held for sale:		
Inventory	$ 1.1	$ 2.4
Property, plant & equipment, net of accumulated depreciation of $2.8 million and $6.8 million as of September 30, 2009 and December 31, 2008, respectively	4.9	15.3
Goodwill	1.4	2.9
Other intangibles	0.2	0.3
Other current assets	0.1	
Assets held for sale	$ 7.7	$ 20.9
Liabilities associated with assets held for sale:		
Accrued expenses and other current liabilities	$ (0.2)	$ (0.2)

Once the Virginia stores were identified as assets held for sale, the operations associated with these properties qualified for reporting as discontinued operations under ASC 360. Accordingly, the operating results, net of tax, from discontinued operations are presented separately in the condensed consolidated statements of operations and the notes to the condensed consolidated financial statements have been adjusted to exclude the discontinued operations. The amounts eliminated from continuing operations did not include allocations of corporate expenses included in the selling, general and administrative expenses caption in the condensed consolidated statements of operations, nor the income tax benefits from such expenses. Components of amounts reflected in income from discontinued operations for the three and nine months ended September 30, 2009 and 2008 are as follows (in millions):

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2009	2008	2009	2008
Net sales	$ 17.7	$ 62.6	$ 57.5	$ 175.8
Operating costs and expenses	(17.1)	(60.9)	(56.5)	(172.6)
Gain (loss) on sale of assets held for sale			(1.1)	
Write-down of goodwill associated with the sale of assets held for sale			(1.5)	
Income (loss) from discontinued operations before income taxes	0.6	1.7	(1.6)	3.2
Income tax expense (benefit)	0.3	0.7	(0.6)	1.3
Income (loss) from discontinued operations, net of tax	$ 0.3	$ 1.0	$ (1.0)	$ 1.9

5. Inventory

Carrying value of inventories consisted of the following (in millions):

	September 30, 2009	December 31, 2008
Refinery raw materials and supplies	$ 20.8	$ 20.1
Refinery work in process	34.3	13.5
Refinery finished goods	15.3	4.1
Retail fuel	13.4	9.8
Retail merchandise	26.5	27.8
Marketing refined products	9.8	4.9
Total inventories	$ 120.1	$ 80.2

At December 31, 2008, market values had fallen below most of our LIFO inventory layer values and, as a result, we recognized a pre-tax loss of approximately $10.9 million relating to the reflection of market value at a level below cost. During the nine months ended September 30, 2009, we recognized gains of $9.0 million relating to the recovery of these losses, not to exceed LIFO cost, due to the recovery of market values. During the three months ended September 30, 2009, we recognized a reversal of loss recovery of $1.0 million due to a reduction in market price increases since June 30, 2009. At September 30, 2009, the excess of replacement cost (FIFO) over the carrying value (LIFO) of refinery inventories was $10.7 million. The excess of replacement cost (FIFO) over the carrying value (LIFO) of refinery inventories at December 31, 2008 was nominal.

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Temporary Liquidations

During the three months ended September 30, 2009, we incurred a temporary LIFO liquidation gain in our refinery inventory of $5.2 million, which we expect to be restored by the end of the year. The temporary LIFO liquidation gain has been deferred as a component of accrued expenses and other current liabilities in the accompanying September 30, 2009 condensed consolidated balance sheet.

During the three months ended September 30, 2008, we incurred a temporary LIFO liquidation gain in our refinery inventory of $8.1 million, which was restored by the end of the year. The temporary LIFO liquidation gain was deferred as a component of accrued expenses and other current liabilities.

Permanent Liquidations

During the three and nine months ended September 30, 2009, we incurred a permanent reduction in the LIFO layer, resulting in a liquidation of our refinery inventory in the amount of $0.5 million and $1.2 million, respectively. This liquidation, which represents a reduction of approximately 62,000 barrels, was recognized as a component of cost of goods sold in the three and nine months ended September 30, 2009.

During the three months ended September 30, 2008, we incurred a permanent reduction in the LIFO layer resulting in a liquidation in our refinery work in process and finished goods inventories in the amount of $14.9 million and during the three months ended September 30, 2008, we incurred a change in the value of this reduction in the LIFO layer, resulting in a liquidation loss of $7.9 million. The total liquidation gain incurred for the nine months ended September 30, 2008 was $7.0 million. This liquidation, which represents a reduction of approximately 177,000 barrels, was recognized as a reduction of cost of goods sold in the nine months ended September 30, 2008.

6. Minority Investment

Investment in Lion Oil Company

On August 22, 2007, Delek completed the acquisition of approximately 28.4% of the issued and outstanding shares of common stock of Lion Oil Company (Lion Oil). On September 25, 2007, Delek completed the acquisition of an additional approximately 6.2% of the issued and outstanding shares of Lion Oil, bringing its total ownership interest to approximately 34.6%. Total cash consideration paid to the sellers by Delek in both transactions totaled approximately $88.2 million. Delek also incurred and capitalized $0.9 million in acquisition transaction costs. In addition to cash consideration, Delek issued to one of the sellers 1,916,667 shares of Delek common stock, par value $0.01 per share, valued at $51.2 million using the closing price of our stock on the date of the acquisition. As of December 31, 2007, our total investment in Lion Oil was $139.5 million.

Lion Oil, a privately held Arkansas corporation, owns and operates a 75,000 barrel per day, crude oil refinery in El Dorado, Arkansas, three crude oil pipelines, a crude oil gathering system and two refined petroleum product terminals in Memphis and Nashville, Tennessee. The two terminals supply products to some of Delek s approximately 180 convenience stores in the Memphis and Nashville markets. These product purchases are made at market value and totaled $1.6 million and $7.2 million, respectively, during the three and nine months ended September 30, 2009 and $2.0 million and $10.4 million, respectively, during the three and nine months ended September 30, 2008. The refining segment also had sales of $2.5 million of intermediate products to the Lion Oil refinery during the nine months ended September 30, 2009. All such sales were made on arm s length terms and conditions. No sales of intermediate products were made during the three or nine months ended September 30, 2008.

At the time of acquisition, we acknowledged that our ownership percentage set a presumption for the use of the equity method of accounting as established in ASC 323, *Investments Equity Method and Joint Ventures* (ASC 323). As a result, we reported our investment using the equity method from acquisition through September 30, 2008. However, our interactions with Lion Oil since acquisition led us to conclude that the initial presumption under ASC 323 had been rebutted. Beginning October 1, 2008, we began reporting our investment in Lion Oil using the cost method of accounting. We carried our investment in Lion Oil at $131.6 million as of both September 30, 2009 and December 31, 2008.

7. Long-Term Obligations and Short-Term Note Payable

Outstanding borrowings under Delek s existing debt instruments and capital lease obligations are as follows (in millions):

	September 30, 2009	December 31, 2008
Senior secured credit facility term loan	$ 85.3	$ 121.2
Senior secured credit facility revolver	29.7	15.8
Fifth Third revolver	53.7	18.8
Reliant Bank revolver	12.0	6.5
Lehman note		27.7
Promissory notes	160.0	95.0
Capital lease obligations	0.8	1.0
	341.5	286.0
Less:		
Current portion of long-term debt, notes payable and capital lease obligations	54.4	83.9
	$ 287.1	$ 202.1

Senior Secured Credit Facility

The senior secured credit facility consists of a $120.0 million revolving credit facility and $165.0 million term loan facility, which, as of September 30, 2009, had $29.7 million outstanding under the revolver and $85.3 million outstanding under the term loan. As of September 30, 2009, Fifth Third Bank, N.A. (Fifth Third) was the administrative agent and a lender under the facility. On September 1, 2009, Fifth Third assumed the role of successor administrative agent under the facility from the resigning administrative agent Lehman Commercial Paper Inc. (LCPI). During September 2008, upon the bankruptcy filing of its parent company, LCPI informed Express that it would not be funding its pro rata lender participation of future borrowings under the revolving credit facility. Since the communication of its intention through the date of its resignation as administrative agent, LCPI did not participate in any borrowings by Express under the revolving credit facility. LCPI s commitment amount under the revolving credit facility is $12 million, leaving Express with an effective revolving credit facility of $108.0 million. LCPI remains, despite the September 1, 2009 amendment hereinafter discussed, a lender to Express under the term loan facility. The unavailability of LCPI s pro rata lender participation in the revolving credit facility has not had and is not expected to have a material impact on Express liquidity or its operations.

Borrowings under the senior secured credit facility are secured by substantially all the assets of Express and its subsidiaries. Letters of credit issued under the facility totaled $15.9 million as of September 30, 2009. The senior secured credit facility term loan requires quarterly principal payments of 0.25% of the principal balance through March 31, 2011 and a balloon payment of the remaining principal balance due upon maturity on April 28, 2011. We are also required to make certain prepayments of this facility depending on excess cash flow as defined in the credit agreement. In accordance with this excess cash flow calculation, we prepaid $19.7 million and $9.5 million in March 2009 and 2008, respectively. In June 2008, Express sold real property operated by a third party for $3.9 million. In September 2008, Express sold its leasehold interest in a location it operated for $4.5 million. The proceeds of the June sale, net of expenses, were used to pay down the term loan, while the net proceeds of the September sale were retained, pursuant to the terms of the facility, for asset reinvestment purposes. During the period from December 2008 through the quarter ended June 30, 2009, consistent with the terms of the December 3, 2008 amendment discussed below, Express disposed of 30 real property assets, of which 27 were located in Virginia. The application of the proceeds from these asset sales, net of any amounts set aside pursuant to the terms of the facility for reinvestment purposes, resulted in the prepayment of the term loan facility in the amount of $19.5 million. During the

quarter ended September 30, 2009, Express disposed of an additional 16 non-core real estate assets, none of which were located in Virginia. The application of the net proceeds from these asset sales resulted in the reduction of debt under the overall facility in the amount of $9.1 million. The senior secured credit facility revolver is payable in full upon maturity on April 28, 2010. The senior secured credit facility term and senior secured credit facility revolver loans bear interest based on predetermined pricing grids which allow us to choose between a Base Rate or Eurodollar rate. At September 30, 2009, the weighted average borrowing rate was approximately 5.75% for the senior secured credit facility term loan and 5.25% for the senior secured credit facility revolver. Additionally, the senior secured credit facility requires us to pay a quarterly fee of 0.5% per year on the average available revolving commitment under the senior secured credit facility revolver. Amounts available under the senior secured revolver as of September 30, 2009 were approximately $62.3 million excluding the commitment of LCPI as a lender under this facility.

On December 3, 2008, the credit facility was amended to allow for the disposition of specific Express real and personal property assets in certain of its geographic operating regions. The amendment also allows for additional asset sales of up to $35.0 million per calendar year subject to such sales meeting certain financial criteria. Additionally, the amendment appointed Fifth Third Bank as the

successor administrative agent subject to the resignation or removal of LCPI. As stated above, the resignation of LCPI and the subsequent assumption of the role of administrative agent by Fifth Third were consummated on September 1, 2009. On January 28, 2009, the credit facility was further amended to allow for the one-time prepayment in the amount of $25.0 million toward the outstanding principal of certain subordinated debt owed to Delek and incurred in conjunction with Delek s purchase, through its Express subsidiary, of 107 retail fuel and convenience stores located in northern Georgia and eastern Tennessee, and related assets, from the Calfee Company of Dalton, Inc. and its affiliates in 2007 (the Calfee acquisition). Pursuant to the terms of the amendment, the $25.0 million prepayment was completed on March 5, 2009. The amendment also implemented a 100 basis point credit spread increase across all tiers in the pricing grid and implemented a LIBOR rate floor of 2.75% for all Eurodollar rate borrowings.

On September 1, 2009, the borrowers and lenders under the credit facility executed a resignation and appointment agreement that consummated the resignation of LCPI as administrative agent and swing line lender under the facility and the appointment of Fifth Third as the successor administrative agent and successor swing line lender under the facility. The agreement also clarifies that as long as LCPI remains a non-performing lender under the credit facility, it has no voting rights and is not entitled to any fees under the facility. Additionally, under the terms of the September 1, 2009 amendment, Express, along with other relevant parties, released LCPI from any and all liabilities they may have arising out of or in connection with the credit facility, including LCPI s non-performance as a lender under the facility.

We are required to comply with certain financial and non-financial covenants under the senior secured credit facility. We believe we were in compliance with all covenant requirements as of September 30, 2009.

SunTrust ABL Revolver

On October 13, 2006, we amended and restated our existing asset based revolving credit facility. The amended and restated agreement, among other things, increased the size of the facility from $250 to $300 million, including a $300 million sub-limit for letters of credit, and extended the maturity of the facility by one year to April 28, 2010. The revolving credit agreement bears interest based on predetermined pricing grids that allow us to choose between a Base Rate or Eurodollar rate. Availability under the SunTrust ABL revolver is determined by a borrowing base calculation defined in the credit agreement and is supported primarily by cash, certain accounts receivable and inventory.

Effective December 15, 2008 and in light of the temporary suspension of our refining operations, the SunTrust ABL revolver was amended to eliminate any need to maintain minimum levels of borrowing base availability during all times that there are zero utilizations of credit (i.e., loans or letters of credit outstanding) under the facility. During times that there are outstanding utilizations of credit under the facility, in the event that our availability (net of a $15.0 million availability block requirement) under the borrowing base is less than $30.0 million or less than $15.0 million on any given measurement date, we become subject to certain reporting obligations and certain covenants, respectively. Then, effective February 18, 2009, we further amended the SunTrust ABL revolver to suspend the credit facility while the refinery was non-operational. The amendment also provided for a series of conditions precedent to the renewed access to the full terms of the credit facility while allowing for limited letter of credit access during the restart phase of refinery operations. The amendment also added a covenant that requires the restart, by September 30, 2009, of the refining operations at a prescribed throughput level to last for a prescribed duration. This amendment also permitted the sale of refinery s pipeline and tankage assets located outside of the refinery gates to a subsidiary of Marketing & Supply for net proceeds of no less than $27.5 million which proceeds were required to be used in the refinery. The sale of the assets was subsequently completed on March 31, 2009 for a total consideration of $29.7 million. The amendment also increased credit spreads by 125 basis points across all tiers of the pricing grid and increased the commitment fees by up to 25 basis points. As of September 30, 2009, we had satisfied all conditions precedent to the renewed access to the full terms of the credit facility and therefore full access had been restored. We believe we were in compliance with all covenant requirements under this facility as of September 30, 2009.

The SunTrust ABL revolver primarily supports our issuance of letters of credit used in connection with the purchases of crude oil for use in our refinery. Such letter of credit usage and any borrowings under the facility may at no time exceed the aggregate borrowing capacity available under the SunTrust ABL revolver. As of September 30, 2009, we had no outstanding loans under the agreement but had letters of credit issued under the facility totaling approximately $120.9 million. Borrowing capacity, as calculated and reported under the terms of the SunTrust ABL revolver, net of a $15.0 million availability block requirement, as of September 30, 2009 was $36.1 million.

The SunTrust ABL revolver contains certain customary non-financial covenants, including a negative covenant that prohibits us from creating, incurring or assuming any liens, mortgages, pledges, security interests or other similar arrangements against the property, plant and equipment of the refinery, subject to customary exceptions for certain permitted liens.

Fifth Third Revolver

On July 27, 2006, Delek executed a short-term revolver with Fifth Third Bank, as administrative agent, in the amount of $50.0 million. The proceeds of this revolver were used to fund the working capital needs of the newly formed subsidiary, Delek Marketing & Supply, LP. The Fifth Third revolver initially had a maturity date of July 30, 2007, but on July 27, 2007 the maturity was extended until January 31, 2008. On December 19, 2007, we amended and restated our existing revolving credit facility. The amended and restated agreement, among other things, increased the size of the facility from $50.0 to $75.0 million, including a $25.0 million sub-limit for letters of credit, and extended the maturity of the facility to December 19, 2012. On October 17, 2008, the agreement was further amended to permit the payment of a one-time distribution of $20.0 million from the borrower, Delek Marketing & Supply, LP, a subsidiary of Marketing to Delek, increase the size of the sub-limit for letters of credit to $35.0 million and reduce the leverage ratio financial covenant limit.

On March 31, 2009, the credit agreement was amended to permit the use of facility proceeds for the purchase of the crude pipeline and tankage assets of the refinery that are located outside the gates of the refinery and which are used to supply substantially all of the necessary crude feedstock to the refinery from the refining subsidiary to a newly-formed subsidiary of Delek Marketing & Supply LP. Pursuant to the terms of the amendment, the purchase of the crude pipeline and tankage assets was completed on March 31, 2009 for a total consideration of $29.7 million, all of which was borrowed from the Fifth Third revolver. The amendment also increased credit spreads by up to 225 basis points and commitment fees by up to 20 basis points across the various tiers of the pricing grid. In addition, on May 6, 2009, the credit agreement was further amended, effective March 31, 2009, related to the definition of certain covenant terms.

The revolver bears interest based on predetermined pricing grids that allow us to choose between Base Rate or Eurodollar rate loans. Borrowings under the Fifth Third revolver are secured by substantially all of the assets of Delek Marketing & Supply LP. As of September 30, 2009, we had $53.7 million outstanding borrowings under the facility at a weighted average borrowing rate of 3.8%. We also had letters of credit issued under the facility of $10.0 million as of September 30, 2009. Amounts available under the Fifth Third revolver as of September 30, 2009 were approximately $11.3 million.

We are required to comply with certain financial and non-financial covenants under this revolver. We believe we were in compliance with all covenant requirements as of September 30, 2009.

Lehman Credit Agreement

On March 30, 2007, Delek entered into a credit agreement with Lehman Commercial Paper Inc. (LCPI) as administrative agent. Through March 30, 2009, LCPI remained the administrative agent under this facility. The credit agreement provided for unsecured loans of $65.0 million, the proceeds of which were used to pay a portion of the costs for the Calfee acquisition in April 2007. In December 2008, a related party to the borrower, Finance, purchased a participating stake in the loan outstanding as permitted under the terms of the agreement. At a consolidated level, this resulted in a gain of $1.6 million on the extinguishment of debt. The loans matured on March 30, 2009 and the facility was repaid in full on the maturity date.

Promissory Notes

On July 27, 2006, Delek executed a three year promissory note in favor of Bank Leumi USA (Bank Leumi) in the amount of $30.0 million (2006 Leumi Note). The proceeds of this note were used to fund an acquisition and working capital needs. On June 23, 2009, this note was amended to extend the maturity date to January 3, 2011 and require quarterly principal amortization in amounts of $2.0 million beginning on April 1, 2010, with a balloon payment of the remaining principal amount due at maturity. As amended, the note bears interest at the greater of a fixed spread over 3 month LIBOR or an interest rate floor of 4.5%. The amendment also introduced certain financial and non-financial covenants and requires a perfected collateral pledge of Delek s shares in Lion Oil by January 4, 2010. The shares to be pledged will secure any Delek debt obligations outstanding on January 4, 2010 under all current promissory notes from Bank Leumi as well as current promissory notes from the Israel Discount Bank of New York (IDB) on a pari passu basis in accordance with the terms of an intercreditor agreement and the stock pledge agreements executed on June 23, 2009 between Bank Leumi, IDB, and Delek. As of September 30, 2009, the weighted average borrowing rate for amounts borrowed under this note was 4.5%. We are required to comply with certain financial and non-financial

covenants under the 2006 Leumi Note, as amended. We believe we were in compliance with all covenant requirements as of September 30, 2009.

On May 12, 2008, Delek executed a second promissory note in favor of Bank Leumi for $20.0 million, maturing on May 11, 2011 (2008 Leumi Note). The proceeds of this note were used to reduce short term debt and for working capital needs. This note was

amended in December 2008 to change the financial covenant calculation methodology and applicability. The note was further amended on June 23, 2009 to require quarterly principal amortization in the amount of $1.0 million beginning on July 1, 2010, with a balloon payment of the remaining principal amount due at maturity. The amendment also modified certain financial and non-financial covenants and requires a perfected collateral pledge of Delek s shares in Lion Oil by January 4, 2010, as discussed above. As amended, the note bears interest at the greater of a fixed spread over LIBOR for periods of 30 or 90 days, as elected by the borrower, or an interest rate floor of 4.5%. As of September 30, 2009, the weighted average borrowing rate for amounts borrowed under this note was 4.5%. We are required to comply with certain financial and non-financial covenants under the note, as amended. We believe we were in compliance with all covenant requirements as of September 30, 2009.

On May 23, 2006, Delek executed a $30.0 million promissory note in favor of IDB (2006 IDB Note). The proceeds of this note were used to repay the then existing promissory notes in favor of IDB and Bank Leumi. On December 30, 2008, the 2006 IDB Note was amended and restated. As amended and restated, the 2006 IDB Note matures on December 31, 2011 and requires quarterly principal amortization in amounts of $1.25 million beginning on March 31, 2010, with a balloon payment of remaining principal amount due at maturity. The amendment also introduced certain financial and non-financial covenants. The 2006 IDB Note bears interest at the greater of a fixed spread over 3 month LIBOR or an interest rate floor of 5.0%. Additionally, on June 23, 2009, Delek agreed to pledge its shares in Lion Oil by January 4, 2010, to secure its obligations under the 2006 IDB Note, in pari passu with certain other notes, as discussed above. As of September 30, 2009, the weighted average borrowing rate for amounts borrowed under the 2006 IDB Note was 5.0%. We believe we were in compliance with all covenant requirements as of September 30, 2009.

On December 30, 2008, Delek executed a second promissory note in favor of IDB for $15.0 million (2008 IDB Note). The proceeds of this note were used to repay the then existing note in favor of Delek Petroleum. This note matures on December 31, 2009 and is reflected in notes payable on the accompanying consolidated statement of position. The note bears interest at the greater of a fixed spread over 3 month LIBOR or an interest rate floor of 5.0%. Additionally, on June 23, 2009, Delek agreed to pledge its shares in Lion Oil by January 4, 2010 to secure its obligations under the 2008 IDB Note, in pari passu with certain other notes, as discussed above. As of September 30, 2009, the weighted average borrowing rate for amounts borrowed under the note was 5.0%. We are required to comply with certain financial and non-financial covenants under the note. We believe we were in compliance with all covenant requirements as of September 30, 2009.

On September 29, 2009, Delek executed a promissory note in favor of Delek Petroleum, Ltd. (Delek Petroleum), an Israeli corporation controlled by our beneficial majority stockholder, Delek Group, in the amount of $65.0 million for general corporate purposes. The note matures on October 1, 2010 and bears interest at 8.5% (net of any applicable withholding taxes) payable on a quarterly basis. Additionally, the lender has the option, any time after December 31, 2009, to elect a one-time adjustment to the functional currency of the principal amount. The note also provides the lender the option to make an adjustment to the interest rate, once during the note life; provided, however, that such adjustment cannot exceed the then prevailing market interest rate. The note is unsecured. The loan is prepayable in whole or in part at any time without penalty or premium at the borrower s election.

Reliant Bank Revolver

On March 28, 2008, we entered into a revolving credit agreement with Reliant Bank, a Tennessee bank, headquartered in Brentwood, Tennessee. The credit agreement provides for unsecured loans of up to $12.0 million. As of September 30, 2009 we had $12.0 million outstanding under this facility at a weighted average borrowing rate of 2.8%. The facility matures on March 28, 2011 and bears interest at a fixed spread over the 30 day LIBOR rate. This agreement was amended in September 2008 to conform certain portions of the financial covenant definition to those contained in some of our other credit agreements. We are required to comply with certain financial and non-financial covenants under this revolver. We believe we were in compliance with all covenant requirements as of September 30, 2009.

Letters of Credit

As of September 30, 2009, Delek had in place letters of credit totaling approximately $150.8 million with various financial institutions securing obligations with respect to its workers compensation self-insurance programs, as well as

purchases of crude oil for the refinery, gasoline and diesel for the marketing segment and fuel for our retail fuel and convenience stores. No amounts were outstanding under these facilities at September 30, 2009.

Interest-Rate Derivative Instruments

Delek had interest rate cap agreements in place totaling $60.0 million and $73.8 million of notional principal amounts at September 30, 2009 and December 31, 2008, respectively. These agreements are intended to economically hedge floating rate debt related to our current borrowings under the Senior Secured Credit Facility. However, as we have elected to not apply the permitted hedge accounting treatment, including formal hedge designation and documentation, in accordance with the provisions of ASC 815 the fair value of the derivatives is recorded in other non-current assets in the accompanying consolidated balance sheets with the offset recognized in earnings. The derivative instruments mature in July 2010. The estimated fair value of our interest rate derivatives at both September 30, 2009 and December 31, 2008 was nominal.

In accordance with ASC 815 we recorded non-cash expense (income) representing the change in estimated fair value of the interest rate cap agreements of nominal amounts for the three and nine months ended September 30, 2009, and $0.1 million and $0.8 million for the three and nine months ended September 30, 2008, respectively.

While Delek has not elected to apply permitted hedge accounting treatment for these interest rate derivatives in accordance with the provisions of ASC 815 in the past, we may choose to elect that treatment in future transactions.

8. Stock Based Compensation

In April 2006, our Board of Directors adopted the Delek US Holdings, Inc. 2006 Long-Term Incentive Plan (the Plan) pursuant to which we may issue an aggregate of 3,053,392 shares of our Common Stock. Under the terms of the Plan, we may grant stock options, stock appreciation rights (SARs), restricted stock, restricted stock units (RSUs) and other stock-based awards to certain directors, officers, employees, consultants and other individuals who perform services for us or our affiliates. The options granted under the Plan are non-qualified and granted at market price or higher. All of the options granted require continued service as a condition to vesting except that the vesting of stock-based awards granted to two executive employees could, under certain circumstances, accelerate upon termination of their employment.

On May 13, 2009, we filed a Tender Offer statement that gave eligible employees and directors the ability to exchange outstanding options under the Plan with per share exercise prices ranging between $16.00 and $35.08, for new options under the Plan to purchase fewer shares of our common stock at a lower exercise price. This offer expired on June 10, 2009 and we accepted for exchange options to purchase an aggregate of 1,398,641 shares of our common stock, representing 84.28% of the 1,659,589 shares covered by eligible options. We granted replacement options to purchase 803,385 shares of common stock in exchange for the tendered options. The exercise price per share of each replacement option granted pursuant to the Offer was $9.17, the closing price of our common stock on the New York Stock Exchange on the grant date, June 10, 2009. This modification resulted in an additional $0.1 million in stock-based compensation expense, which will be recognized over the remaining terms of the original options granted. Prior to the Tender Offer, approximately 75% of grants under the Plan vested ratably over a period between three to five years and approximately 25% of the grants vested at the end of the fourth year. Following the Tender Offer, we expect that most new awards granted under the Plan will vest ratably over a period of four years.

On September 25, 2009, we entered into an employment agreement with our President and Chief Executive Officer, Mr. Yemin, which contains a deferred compensation element. Under the terms of the Agreement, Mr. Yemin was granted 1,850,040 SARs under the Plan on September 30, 2009. The SARs vest over a period of approximately four years. 640,440 of the SARs are subject to a base price of $8.57 per share (the fair market value at the date of grant), 246,400 SARs each are subject to base prices of $12.40, $13.20, $14.00, and $14.80 per share and the remaining 224,000 SARs are subject to a base price of $15.60 per share. The SARs will expire upon the earlier of the first anniversary of Mr. Yemin s termination of employment or October 31, 2014 (the first anniversary of the expiration of the agreement). The SARs may be settled in shares of Common Stock or cash at Delek s sole discretion.

Compensation Expense Related to Equity-based Awards

Compensation expense for the equity-based awards amounted to $0.6 million ($0.4 million, net of taxes) and $2.3 million ($1.5 million, net of taxes), respectively, for the three and nine months ended September 30, 2009 and $0.8 million ($0.5 million, net of taxes) and $2.5 million ($1.7 million, net of taxes), respectively, for the three and nine months ended September 30, 2008. These amounts are included in general and administrative expenses in the accompanying condensed consolidated statements of operations.

As of September 30, 2009, there was $6.3 million of total unrecognized compensation cost related to non-vested share-based compensation arrangements, which is expected to be recognized over a weighted-average period of 2.0 years.

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9. Segment Data

We report our operating results in three reportable segments: refining, marketing and retail. Decisions concerning the allocation of resources and assessment of operating performance are made based on this segmentation. Management measures the operating performance of each of its reportable segments based on the segment contribution margin.

Segment contribution margin is defined as net sales less cost of sales and operating expenses, excluding depreciation and amortization. Operations which are not specifically included in the reportable segments are included in the corporate and other category, which primarily consists of operating expenses, depreciation and amortization expense and interest income and expense associated with corporate headquarters.

The refining segment processes crude oil that is transported through our crude oil pipeline and an unrelated third-party pipeline. The refinery processes the crude and other purchased feedstocks for the manufacture of transportation motor fuels including various grades of gasoline, diesel fuel, aviation fuel and other petroleum-based products that are distributed through its product terminal located at the refinery.

Our marketing segment sells refined products on a wholesale basis in west Texas through company-owned and third-party operated terminals. This segment also provides marketing services to the Tyler refinery.

In order to more appropriately align business activities, certain pipeline assets which had been held and managed by the refining segment were sold to the marketing segment on March 31, 2009. These assets and their earnings streams are now reflected in the activities of the marketing segment.

Our retail segment markets gasoline, diesel, other refined petroleum products and convenience merchandise through a network of company-operated retail fuel and convenience stores throughout the southeastern United States. As of September 30, 2009, we had 443 stores in total consisting of 248 located in Tennessee, 94 in Alabama, 81 in Georgia, and 13 in Arkansas. The remaining 7 stores are located in Kentucky, Louisiana and Mississippi. The retail fuel and convenience stores operate under Delek s brand names MAPCO Express®, MAPCO Mart®, Discount Food Mart™, Fast Food and Fuel™ and Favorite Markets® brands. Additionally, we operated 9 retail fuel and convenience stores in Virginia under the East Coast® brand, which were classified as held for sale as of September 30, 2009. The operating results for these stores, in all periods presented herein, have been included in discontinued operations. In the retail segment, management reviews operating results on a divisional basis, where a division represents a specific geographic market. These divisional operating segments exhibit similar economic characteristics, provide the same products and services, and operate in a manner such that aggregation of these operations is appropriate for segment presentation.

Our refining business has a services agreement with our marketing segment, which among other things, requires the refining segment to pay service fees to the marketing segment based on the number of gallons sold at the Tyler refinery and a sharing of a portion of the marketing margin achieved in return for providing marketing, sales and customer services. This intercompany transaction fee was $1.2 million and $8.6 million, respectively, in the three and nine months ended September 30, 2009 and $4.8 million and $10.8 million in the three and nine months ended September 30, 2008, respectively. Additionally, in April 2009, the refining segment began paying crude transportation and storage fees to the marketing segment, relating to the utilization of certain crude pipeline assets. These fees were $2.4 million and $4.4 million during the three and nine months ended September 30, 2009, respectively. During the three and nine months ended September 30, 2009, refining sold finished product to marketing in the amount of $3.3 million. There were no such sales during the three and nine months ended September 30, 2008. All inter-segment transactions have been eliminated in consolidation.

The following is a summary of business segment operating performance as measured by contribution margin for the period indicated (in millions):

	As of and For the Three Months Ended September 30, 2009				
	Refining	Retail	Marketing	Corporate, Other and Eliminations	Consolidated
Net sales (excluding intercompany marketing fees and sales)	$ 366.1	$ 365.2	$ 86.5	$ 0.1	$ 817.9
Intercompany marketing fees and sales	2.1		3.6	(5.7)	
Operating costs and expenses:					
Cost of goods sold	347.5	315.1	85.7	(3.2)	745.1
Operating expenses	24.1	33.4	0.5	(2.4)	55.6
Insurance proceeds business interruption	(6.0)				(6.0)
Property damage proceeds, net	(5.8)				(5.8)
Segment contribution margin	$ 8.4	$ 16.7	$ 3.9	$	29.0
General and administrative expenses					15.4
Depreciation and amortization					13.9
Loss on sale of assets					1.9
Operating income					$ (2.2)
Total assets	$ 554.0	$ 434.6	$ 67.4	$ 210.6	$ 1,266.6
Capital spending (excluding business combinations)	$ 7.9	$ 4.2	$	$	$ 12.1

	As of and For the Three Months Ended September 30, 2008				
	Refining	Retail(1)	Marketing	Corporate, Other and Eliminations	Consolidated
Net sales (excluding intercompany marketing fees and sales)	$ 675.3	$ 506.9	$ 220.1	$ 0.2	$ 1,402.5
Intercompany marketing fees and sales	(4.8)		4.8		
Operating costs and expenses:					
Cost of goods sold	612.8	450.0	217.4	(9.0)	1,271.2
Operating expenses	28.1	35.4	0.4	0.1	64.0
Segment contribution margin	$ 29.6	$ 21.5	$ 7.1	$ 9.1	67.3
General and administrative expenses					16.3
Depreciation and amortization					10.3