

NATIONAL FUEL GAS CO
Form S-3ASR
March 19, 2018
Table of Contents

As filed with the Securities and Exchange Commission on March 19, 2018

Registration No. 333-

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

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

National Fuel Gas Company

(Exact name of registrant as specified in its charter)

New Jersey
(State or other jurisdiction of

13-1086010
(I.R.S. Employer

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incorporation or organization)

6363 Main Street

Identification Number)

Williamsville, New York 14221

(716) 857-7000

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

Ronald J. Tanski

Christopher M. Kelly

President and Chief Executive Officer

Andrew C. Thomas

6363 Main Street

Jones Day

Williamsville, New York 14221

901 Lakeside Avenue

(716) 857-7000

Cleveland, Ohio 44114

(216) 586-3939

(Names, addresses, including zip codes, and telephone numbers, including area codes, of agents for service)

It is respectfully requested that the Commission send copies of all orders, notices and communications to:

Michael F. Fitzpatrick, Jr.

Hunton & Williams LLP

200 Park Avenue

53rd Floor

New York, New York 10166

(212) 309-1071

Approximate date of commencement of proposed sale to the public: From time to time after this registration statement becomes effective.

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

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

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act of 1933, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act of 1933, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

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

Table of Contents

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

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

Large accelerated filer		Accelerated filer
Non-accelerated filer	(Do not check if a smaller reporting company)	Small reporting company
		Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected to not use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Unit ⁽¹⁾	Proposed Maximum Aggregate Offering Price ⁽¹⁾	Amount of Registration Fee ⁽²⁾
Debt Securities				
Common stock, par value \$1.00 per share				
Stock purchase contracts ⁽³⁾				
Stock purchase units ⁽³⁾				
Total				

- (1) An indeterminate aggregate initial offering price or number of securities are being registered and may from time to time be offered at indeterminate prices or pursuant to the antidilution provisions of any such securities.
- (2) In accordance with Rules 456(b) and 457(r) of the Securities Act of 1933, the Registrant is deferring payment of all of the registration fees, which will be paid from time to time in connection with one or more offerings of securities to be made hereunder.
- (3) The stock purchase contracts may be issued separately or as part of stock purchase units. Each stock purchase unit will consist of (a) a stock purchase contract, under which the holder, upon settlement, will purchase an indeterminate number of shares of the registrant's common stock and (b) a beneficial interest in debt securities, trust preferred securities, preferred stock or debt obligations of either the registrant or third parties, including U.S. Treasury securities, purchased with the proceeds from the sale of the stock purchase units. Each beneficial interest will be pledged to secure the obligation of such holder to purchase such shares of common stock. No separate consideration will be received for the stock purchase contracts or the related beneficial interests. Includes an indeterminate number of shares of common stock to be issued by the registrant upon settlement of the stock purchase contracts.

Table of Contents

PROSPECTUS

National Fuel Gas Company

DEBT SECURITIES

COMMON STOCK

STOCK PURCHASE CONTRACTS

and

STOCK PURCHASE UNITS

National Fuel Gas Company may periodically sell any or all of the following securities to the public:

debt securities;

common stock;

stock purchase contracts; and

stock purchase units.

National Fuel Gas Company will provide specific terms of its securities, including their offering prices, in supplements to this prospectus. The supplements may also add, update or change information contained in this prospectus. You should read this prospectus and any supplements carefully before you invest.

National Fuel Gas Company's common stock is listed on the New York Stock Exchange and trades under the symbol NFG.

Investing in the securities involves risks. See Risk Factors on page 2 for information on certain risks related to the purchase of securities.

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National Fuel Gas Company may offer these securities directly or through underwriters, agents or dealers. The supplements to this prospectus will describe the terms of any particular plan of distribution, including any underwriting arrangements. The "Plan of Distribution" section on page 20 of this prospectus also provides more information on this topic.

National Fuel Gas Company's principal executive offices are located at 6363 Main St., Williamsville, New York 14221 and its telephone number is (716) 857-7000.

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

The date of this prospectus is March 19, 2018.

Table of Contents

No person is authorized to give any information or to make any representations other than those contained or incorporated by reference in this prospectus or any accompanying prospectus supplement and, if given or made, such information or representations must not be relied upon as having been authorized. This prospectus and any accompanying prospectus supplement do not constitute an offer to sell or the solicitation of an offer to buy any securities other than the securities described in this prospectus and any accompanying prospectus supplement or an offer to sell or the solicitation of an offer to buy such securities in any circumstance in which such offer or solicitation is unlawful. Neither the delivery of this prospectus or any accompanying prospectus supplement, nor any sale made under this prospectus or any accompanying prospectus supplement shall, under any circumstances, create any implication that there has been no change in the affairs of National Fuel Gas Company since the date of this prospectus or any accompanying prospectus supplement or that the information contained or incorporated by reference in this prospectus or any accompanying prospectus supplement is correct as of any time subsequent to the date of such information.

TABLE OF CONTENTS

	Page
<u>ABOUT THIS PROSPECTUS</u>	1
<u>RISK FACTORS</u>	2
<u>NATIONAL FUEL GAS COMPANY</u>	3
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	4
<u>INCORPORATION BY REFERENCE</u>	5
<u>RATIO OF EARNINGS TO FIXED CHARGES</u>	6
<u>USE OF PROCEEDS</u>	7
<u>DESCRIPTION OF DEBT SECURITIES</u>	8
<u>DESCRIPTION OF COMMON STOCK</u>	17
<u>DESCRIPTION OF STOCK PURCHASE CONTRACTS AND STOCK PURCHASE UNITS</u>	19
<u>PLAN OF DISTRIBUTION</u>	20
<u>EXPERTS</u>	22
<u>LEGAL OPINIONS</u>	22

Table of Contents

ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that National Fuel Gas Company (National) has filed with the Securities and Exchange Commission (the SEC) using a shelf registration process. Under this shelf registration process, National may sell the securities or combinations of the securities described in this prospectus in one or more offerings. This prospectus provides you with a general description of the securities that National may offer. Each time National sells securities, National will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with additional information described under the heading Where You Can Find More Information.

For more detailed information about the securities, you can read the exhibits to the registration statement. Those exhibits have been either filed with the registration statement or incorporated by reference to earlier SEC filings listed in the registration statement.

References in this prospectus and the prospectus supplement to National or National Fuel are to National Fuel Gas Company, National Fuel Gas Company and its subsidiaries or National Fuel Gas Company's subsidiaries as appropriate in the context of the disclosure.

- 1 -

Table of Contents

RISK FACTORS

In considering whether or not to purchase securities of National, you should carefully consider the risks described under "Risk Factors" in any prospectus supplement and in the documents National incorporates by reference in this prospectus and any prospectus supplement, as well as the other information included or incorporated by reference in this prospectus and any prospectus supplement.

- 2 -

Table of Contents

NATIONAL FUEL GAS COMPANY

National, incorporated in 1902, is a holding company organized under the laws of New Jersey. National is engaged in the business of owning and holding securities issued by its subsidiaries.

National and its subsidiaries comprise a diversified energy company consisting of five business segments:

the Exploration and Production segment, which is engaged in the exploration for, and the development and production of, natural gas and oil reserves in California and in the Appalachian region of the United States;

the Pipeline and Storage segment, which provides interstate natural gas transportation and storage services;

the Gathering segment, which builds, owns and operates natural gas processing and pipeline gathering facilities in the Appalachian region;

the Utility segment, which sells natural gas and provides natural gas transportation services to customers through a local distribution system located in western New York and northwestern Pennsylvania; and

the Energy Marketing segment, which markets natural gas to industrial, wholesale, commercial, public authority and residential customers primarily in western and central New York and northwestern Pennsylvania.

National's other businesses are engaged in the marketing of timber and in the development and operation of natural gas processing and pipeline gathering facilities in the Appalachian region.

National's principal executive offices are located at 6363 Main Street, Williamsville, New York 14221 and its telephone number is (716) 857-7000.

Table of Contents

WHERE YOU CAN FIND MORE INFORMATION

National files annual, quarterly and other reports, proxy statements and other information with the SEC. These SEC filings are available to the public over the Internet at the SEC's website at <http://www.sec.gov>. You may also read and copy any of these SEC filings at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the Public Reference Room. Information about National is also available on National's website, www.natfuel.com. Other than any SEC filings incorporated by reference in this prospectus, the information available on National's website is not part of this prospectus or any prospectus supplement thereto.

Table of Contents

INCORPORATION BY REFERENCE

National discloses important information to you by referring you to documents that it has filed with the SEC that are incorporated by reference in this prospectus.

The following documents have been filed by National with the SEC and are incorporated herein by reference:

- (a) National's Annual Report on Form 10-K (SEC File No. 001-03880) for the fiscal year ended September 30, 2017, filed with the SEC on November 17, 2017;
- (b) The portions of National's Definitive Proxy Statement on Schedule 14A filed with the SEC on January 19, 2018 that are incorporated by reference into Part III of National's Annual Report on Form 10-K for the fiscal year ended September 30, 2017 (SEC File No. 001-03880);
- (c) National's Quarterly Report on Form 10-Q (SEC File No. 001-03880) for the period ended December 31, 2017, filed with the SEC on February 2, 2018;
- (d) National's Current Reports on Form 8-K (SEC File No. 001-03880), filed with the SEC on December 22, 2017, January 12, 2018 (Items 1.01, 3.03 and 9.01 only), January 16, 2018, January 17, 2018 and March 13, 2018, and on Form 8-K/A filed on December 27, 2017; and
- (e) The description of National's Common Stock contained in the Registration Statements on Form 8-A filed with the SEC under Section 12(b) of the Securities Exchange Act of 1934, as amended (the *Exchange Act*), including any amendments or reports filed for the purpose of updating such description.

All documents filed by National with the SEC pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, subsequent to the date of this Registration Statement and prior to the filing of a post-effective amendment that indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, will be deemed to be incorporated by reference in this Registration Statement and to be part hereof from the date of filing of such documents. National will not, however, incorporate by reference any documents or portions thereof that are not deemed filed with the SEC, including any information furnished pursuant to Item 2.02 or Item 7.01 of National's Current Reports on Form 8-K unless, and except to the extent, specified in such reports.

Any statement contained in any document incorporated or deemed to be incorporated by reference herein will be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded will not be deemed, except as modified or superseded, to constitute a part of this Registration Statement.

We will provide you with a copy of any of these filings (other than an exhibit to these filings, unless the exhibit is specifically incorporated by reference into the filing requested) at no cost, if you submit a request to us by writing or telephoning us at the following address or telephone number:

National Fuel Gas Company

6363 Main Street

Williamsville, New York 14221

Attention: Corporate Secretary

Table of Contents**RATIO OF EARNINGS TO FIXED CHARGES**

The following table shows the ratio of earnings to fixed charges for the periods indicated:

Three Months Ended December 31, 2017	Fiscal Years Ended September 30,				
	2017	2016	2015	2014	2013
4.78	4.50	(2)	(1)	5.36	4.92

(1) The ratio coverage for the fiscal year ended September 30, 2015 was less than 1:1. The Company would have needed to generate additional earnings of approximately \$698,977,000 to achieve a coverage of 1:1 for the fiscal year ended September 30, 2015.

(2) The ratio coverage for the fiscal year ended September 30, 2016 was less than 1:1. The Company would have needed to generate additional earnings of approximately \$523,855,000 to achieve a coverage of 1:1 for the fiscal year ended September 30, 2016.

For the purpose of calculating the ratio of earnings to fixed charges, Fixed Charges represent the sum of interest expense, including capital interest and excluding any amounts recorded in interest expense as allowance for borrowed funds used in construction or amortization of loss on reacquired debt, and an estimate of the interest within rental expense. Earnings represents the amount resulting from adding the following items: pretax income from continuing operations before adjustment for income or loss from equity investees (unconsolidated subsidiaries), fixed charges (as defined in the previous sentence), and distributed income of equity investees (unconsolidated subsidiaries).

Table of Contents

USE OF PROCEEDS

Except as may otherwise be set forth in an applicable prospectus supplement, the proceeds from the sale of these securities may be used to reduce short-term indebtedness, to redeem or discharge indebtedness, to finance a portion of National's capital expenditures, for corporate development purposes, including, without limitation, acquisitions made by or on behalf of National or its subsidiaries, and for other general corporate purposes.

- 7 -

Table of Contents

DESCRIPTION OF DEBT SECURITIES

General

The following description sets forth certain general terms and provisions of National's unsecured debt securities, consisting of debentures and medium-term notes, that National may offer by this prospectus. National will describe the particular terms of the debt securities, and provisions that vary from those described below, in one or more prospectus supplements.

The debt securities will be National's direct unsecured general obligations. The debt securities will be senior debt securities. National may issue the debt securities from time to time in one or more series, under an indenture, dated as of October 1, 1999, between National and The Bank of New York Mellon (formerly The Bank of New York), as trustee (the "Trustee"). This indenture, as it may be amended and supplemented from time to time, is referred to in this prospectus as the "Indenture".

The following descriptions of the debt securities and the Indenture are summaries and are qualified by reference to the Indenture. This summary does not contain a complete description of the debt securities. You should read this summary together with the Indenture and the officer's certificates or other documents establishing the debt securities for a complete understanding of the provisions that may be important to you. References to certain sections of the Indenture are included in parentheses. Whenever particular provisions or defined terms in the Indenture are referred to under this Description of Debt Securities, such provisions or defined terms are incorporated by reference herein. The Indenture is qualified under the Trust Indenture Act of 1939. You should refer to the Trust Indenture Act of 1939 for provisions that apply to the debt securities.

The debt securities will rank equally with all of National's other senior, unsecured and unsubordinated debt.

Because National is a holding company that conducts all of its operations through subsidiaries, holders of debt securities will generally have a position junior to claims of creditors (including trade creditors of and holders of indebtedness issued by any such subsidiary) and preferred stockholders of the subsidiaries of National. No subsidiary currently has outstanding shares of preferred stock.

The prospectus supplement relating to any series of debt securities being offered will include specific terms relating to that offering. These terms will include any of the following terms that apply to that series:

the title of the debt securities;

the total principal amount of the debt securities;

the date or dates on which the principal of the debt securities will be payable and how it will be paid;

the rate or rates at which the debt securities will bear interest, or how such rate or rates will be determined;

the date or dates from which interest on the debt securities will accrue, the interest payment dates on which interest will be paid, and the record dates for interest payments;

any right to extend the interest payment periods for the debt securities and the duration of the extension;

the percentage, if less than 100%, of the principal amount of the debt securities that will be payable if the maturity of the debt securities is accelerated;

any date or dates on which, and the price or prices at which, the debt securities may be redeemed at the option of National and any restrictions on such redemptions;

any sinking fund or other provisions or options held by holders of debt securities that would obligate National to repurchase or otherwise redeem the debt securities;

Table of Contents

any changes or additions to the events of default under the Indenture or changes or additions to the covenants under the Indenture;

if the debt securities will be issued in denominations other than \$1,000;

if payments on the debt securities may be made in a currency or currencies other than United States dollars;

any convertible feature or options regarding the debt securities;

any rights or duties of another person to assume the obligations of National with respect to the debt securities;

any collateral, security, assurance or guarantee for the debt securities; and

any other terms of the debt securities not inconsistent with the terms of the Indenture.

(See Section 301.)

The Indenture does not limit the principal amount of debt securities that may be issued. The Indenture allows debt securities to be issued up to the principal amount that may be authorized by National. Unless otherwise specified in the prospectus supplement, any limit upon the aggregate principal amount of the debt securities of any series may be increased without the consent of any holders and additional debt securities of such series may be authenticated and delivered up to the limit on the aggregate principal amount authorized with respect to such series as so increased. Accordingly, the debt securities of any series may be increased on the same terms and conditions, except for the issue price and the issue date, and with the same CUSIP numbers as the debt securities of such series initially offered.

Debt securities may be sold at a discount below their principal amount. United States federal income tax considerations applicable to debt securities sold at an original issue discount may be described in the prospectus supplement. In addition, certain United States federal income tax or other considerations applicable to any debt securities which are denominated or payable in a currency or currency unit other than United States dollars may be described in the prospectus supplement.

Except as may otherwise be described in a prospectus supplement, the covenants contained in the Indenture will not afford holders of debt securities protection in the event of a highly leveraged or similar transaction involving National or in the event of a change in control.

Payment And Paying Agents

Except as may be provided in the prospectus supplement, interest, if any, on each debt security payable on each interest payment date will be paid to the person in whose name such debt security is registered as of the close of business on the regular record date for the interest payment date. However, interest payable at maturity will be paid to the person to whom the principal is paid. If there has been a default in the payment of interest on any debt security, the defaulted interest may be paid to the holder of such debt security as of the close of business on a date to be fixed by the Trustee, which will be between 10 and 15 days prior to the date proposed by National for payment of such defaulted interest or in any other manner permitted by any securities exchange on which such debt security may be listed, if the Trustee finds it practicable. (See Section 307.)

Unless otherwise specified in the prospectus supplement, principal of, and premium, if any, and interest, if any, on the debt securities at maturity will be payable upon presentation of the debt securities at the corporate trust office of the Trustee, as paying agent, in The City of New York. National may change the place of payment on the debt securities, may appoint one or more additional paying agents (including National) and may remove any paying agent, all at the discretion of National. (See Section 602.)

Table of Contents

Registration And Transfer

Unless otherwise specified in a prospectus supplement, the transfer of debt securities may be registered, and debt securities may be exchanged for other debt securities of the same series or tranche, of authorized denominations and with the same terms and principal amount, at the corporate trust office of the Trustee in The City of New York. National may change the place for registration of transfer and exchange of the debt securities and may designate additional places for such registration and exchange. Unless otherwise provided in the prospectus supplement, no service charge will be made for any transfer or exchange of the debt securities. However, National may require payment to cover any tax or other governmental charge that may be imposed. National will not be required to execute or to provide for the registration of transfer of, or the exchange of, (a) any debt security during a period of 15 days prior to giving any notice of redemption or (b) any debt security selected for redemption except the unredeemed portion of any debt security being redeemed in part. (See Section 305.)

Satisfaction And Discharge

National will be discharged from its obligations on the debt securities of a particular series, or any portion of the principal amount of the debt securities of such series, if it irrevocably deposits with the Trustee sufficient cash or government securities to pay the principal, or portion of principal, interest, any premium and any other sums when due on the debt securities of such series at their maturity, stated maturity date, or redemption. (See Section 701.)

The Indenture will be deemed satisfied and discharged when no debt securities remain outstanding and when National has paid all other sums payable by National under the Indenture. (See Section 702.)

All moneys National pays to the Trustee or any paying agent on debt securities which remain unclaimed at the end of two years after payments have become due will be paid to or upon the order of National. Thereafter, the holder of such debt security may look only to National for payment thereof. (See Section 603.)

Limitation On Liens On Subsidiary Capital Stock

The Indenture provides that, except as otherwise specified with respect to a particular series of debt securities, National will not pledge, mortgage, hypothecate or grant a security interest in, or permit any pledge, mortgage, security interest or other lien upon, any capital stock of any of its majority-owned subsidiaries, which capital stock National now or hereafter directly owns, to secure any Indebtedness, as defined below, without also securing the outstanding debt securities (so long as the other Indebtedness shall be so secured) equally and ratably, with or, at National's option, prior to, the other Indebtedness and any other Indebtedness similarly entitled to be so secured.

This limitation does not apply to, or prevent the creation or existence of:

- (1) any pledge, mortgage, security interest, lien or encumbrance upon any such capital stock created at the time National acquires that capital stock or within 270 days after that time to secure the purchase price for that capital stock so acquired;
- (2) any pledge, mortgage, security interest, lien or encumbrance upon any such capital stock existing at the time National acquires that capital stock, whether or not National assumes the secured obligations; or
- (3) any extension, renewal, replacement or refunding of any pledge, mortgage, security interest, lien or encumbrance permitted by (1) and (2) above, or of any Indebtedness secured thereby; provided, that,
 - (a) the principal amount of Indebtedness so secured immediately after the extension, renewal, replacement or refunding may not exceed the principal amount of Indebtedness so secured immediately before the extension, renewal, replacement or refunding; and

Table of Contents

- (b) the extension, renewal, replacement or refunding of such pledge, mortgage, security interest, lien or encumbrance is limited to no more than the same proportion of all shares of capital stock as were covered by the pledge, mortgage, security interest, lien or encumbrance that was extended, renewed, refunded or replaced; or
- (4) any judgment, levy, execution, attachment or other similar lien arising in connection with court proceedings, provided that:
 - (a) the execution or enforcement of the lien is effectively stayed within 30 days after entry of the corresponding judgment, or the corresponding judgment has been discharged within such 30 day period, and the claims secured thereby are being contested in good faith by appropriate proceedings timely commenced and diligently prosecuted; or
 - (b) the payment of the lien is covered in full by insurance and the insurance company has not denied or contested coverage thereof; or
 - (c) so long as the lien is adequately bonded, any appropriate legal proceedings that may have been duly initiated for the review of the corresponding judgment, decree or order shall not have been fully terminated or the period within which these proceedings may be initiated shall not have expired.

Any pledge, mortgage, security interest, lien or encumbrance on any shares of the capital stock of any of the majority-owned subsidiaries of National, which shares of capital stock National now or hereafter directly owns, to secure any Indebtedness other than as described in (1) through (4) above, is referred to in this prospectus as a Restricted Lien. This limitation on liens does not apply to the extent that National creates any Restricted Liens to secure Indebtedness that, together with all other Indebtedness of National secured by Restricted Liens, does not at the time exceed 5% of National's Consolidated Capitalization. (See Section 608.)

For this purpose, Consolidated Capitalization means the sum of:

- (1) Consolidated Common Shareholders' Equity;
- (2) Consolidated Indebtedness, exclusive of any that is due and payable within one year of the date the sum is determined; and, without duplication
- (3) any preference or preferred stock of National or any Consolidated Subsidiary, as defined below, which is subject to mandatory redemption or sinking fund provisions.

The term Consolidated Common Shareholders' Equity, as used above, means the total assets of National and its Consolidated Subsidiaries that would, in accordance with generally accepted accounting principles in the United States, be classified on a balance sheet as assets, less: (a) all liabilities of National and its Consolidated Subsidiaries that would, in accordance with generally accepted accounting principles in the United States, be classified on a balance sheet as liabilities; (b) minority interests owned by third parties in Consolidated Subsidiaries of National; and (c) preference or preferred stock of National and its Consolidated Subsidiaries only to the extent any such preference or preferred stock is subject to mandatory redemption or sinking fund provisions.

The term Consolidated Indebtedness, as used above, means total indebtedness as shown on the consolidated balance sheet of National and its Consolidated Subsidiaries.

The term Consolidated Subsidiary, as used above, means at any date any majority-owned subsidiary the financial statements of which under generally accepted accounting principles in the United States would be consolidated with those of National in its consolidated financial statements as of such date.

For purposes of the limitation described in the first paragraph under this heading, Indebtedness means:

- (1) all indebtedness created or assumed by National for the repayment of money borrowed;

- 11 -

Table of Contents

(2) all indebtedness for money borrowed secured by a lien upon capital stock owned by National and upon which indebtedness for money borrowed National customarily pays interest, although National has not assumed or become liable for the payment of such indebtedness for money borrowed; and

(3) all indebtedness of others for money borrowed which is guaranteed as to payment of principal by National or in effect guaranteed by National through a contingent agreement to purchase such indebtedness for money borrowed, but excluding from this definition any other contingent obligation of National in respect of indebtedness for money borrowed or other obligations incurred by others.

The foregoing limitation does not limit in any manner the ability of: (1) National to place liens on any of its assets other than the capital stock of directly held, majority-owned subsidiaries; (2) National to cause the transfer of its assets or those of its subsidiaries, including the capital stock covered by the foregoing restrictions; or (3) any of the direct or indirect subsidiaries of National to place liens on any of their assets.

In addition, the Indenture provides that if debentures issued by National under the indenture dated as of October 15, 1974, as supplemented (1974 Indenture), between National and The Bank of New York Mellon, as trustee, in an aggregate principal amount in excess of 5% of National's Consolidated Capitalization become secured pursuant to the provisions of the 1974 Indenture, National will secure any outstanding debt securities equally and ratably with those debentures. If National secures the outstanding debt securities, as provided in the prior sentence, then if and for so long as the aggregate principal amount of the debentures secured pursuant to the 1974 Indenture at any time decreases and as a result constitutes 5% or less of National's Consolidated Capitalization, the outstanding debt securities will no longer be secured. (See Section 608.)

As of December 31, 2017, the Consolidated Capitalization of National was approximately \$3,944,388,000.

Consolidation, Merger, And Sale Of Assets

Under the terms of the Indenture, National may not consolidate with or merge into any other entity or convey, transfer or lease its properties and assets substantially as an entirety to any entity, unless:

the surviving or successor entity is organized and validly existing under the laws of any domestic jurisdiction and it expressly assumes National's obligations on all debt securities and under the Indenture;

immediately after giving effect to the transaction, no event of default and no event which, after notice or lapse of time or both, would become an event of default shall have occurred and be continuing; and

National shall have delivered to the Trustee an officer's certificate and an opinion of counsel as to compliance with the foregoing. The terms of the Indenture do not restrict National in a merger in which National is the surviving entity. (See Section 1101.)

Events Of Default

Event of default when used in the Indenture with respect to any series of debt securities, means any of the following:

failure to pay interest, if any, on any debt security of the applicable series for 30 days after it is due;

failure to pay the principal of or premium, if any, on any debt security of the applicable series when due (whether at maturity or upon earlier redemption);

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failure to perform any other covenant in the Indenture, other than a covenant that does not relate to that series of debt securities, that continues for 90 days after National receives written notice from the

- 12 -

Table of Contents

Trustee, or National and the Trustee receive a written notice from the holders of at least 33% in principal amount of the debt securities of such series; however, the Trustee or the Trustee and the holders of such principal amount of debt securities of this series can agree to an extension of the 90 day period and such an agreement to extend will be automatically deemed to occur if National is diligently pursuing action to correct the default;

certain events in bankruptcy, insolvency or reorganization of National; or

any other event of default included in any supplemental indenture or officer's certificate for a specific series of debt securities. (See Section 801).

The Trustee may withhold notice to the holders of debt securities of any default, except default in the payment of principal, premium or interest, if it considers such withholding of notice to be in the interests of the holders. An event of default for a particular series of debt securities does not necessarily constitute an event of default for any other series of debt securities issued under the Indenture.

Remedies

Acceleration of Maturity

If an event of default with respect to fewer than all the series of debt securities occurs and continues, either the Trustee or the holders of at least 33% in principal amount of the debt securities of such series may declare the entire principal amount of all the debt securities of such series, together with accrued interest, to be due and payable immediately. However, if the event of default is applicable to all outstanding debt securities under the Indenture, only the Trustee or holders of at least 33% in principal amount of all outstanding debt securities of all series, voting as one class, and not the holders of any one series, may make such a declaration of acceleration.

At any time after a declaration of acceleration with respect to the debt securities of any series has been made and before a judgment or decree for payment of the money due has been obtained, the event of default giving rise to such declaration of acceleration will be considered waived, and such declaration and its consequences will be considered rescinded and annulled, if:

National has paid or deposited with the Trustee a sum sufficient to pay:

all overdue interest, if any, on all debt securities of the series;

the principal of and premium, if any, on any debt securities of the series which have otherwise become due and interest, if any, that is currently due;

interest, if any, on overdue interest; and

all amounts due to the Trustee under the Indenture; and

any other event of default with respect to the debt securities of that series shall have been cured or waived as provided in the Indenture.

There is no automatic acceleration, even in the event of bankruptcy, insolvency or reorganization of National. (See Section 802.)

Right to Direct Proceedings

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Other than its duties in case of an event of default, the Trustee is not obligated to exercise any of its rights or powers under the Indenture at the request, order or direction of any of the holders, unless the holders offer the Trustee a reasonable indemnity. (See Section 903.) If they provide a reasonable indemnity, the holders of a

- 13 -

Table of Contents

majority in principal amount of any series of debt securities will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any power conferred upon the Trustee. However, if the event of default relates to more than one series, only the holders of a majority in aggregate principal amount of all affected series will have the right to give this direction. (See Section 812). The Trustee is not obligated to comply with directions that conflict with law or other provisions of the Indenture.

Limitation on Right to Institute Proceedings

No holder of debt securities of any series will have any right to institute any proceeding under the Indenture, or to exercise any remedy under the Indenture, unless:

the holder has previously given to the Trustee written notice of a continuing event of default;

the holders of a majority in aggregate principal amount of the outstanding debt securities of all series in respect of which an event of default shall have occurred and be continuing have made a written request to the Trustee, and have offered reasonable indemnity to the Trustee to institute proceedings; and

the Trustee has failed to institute any proceeding for 60 days after notice and has not received any direction inconsistent with the written request of holders during such period.

(See Section 807.)

No Impairment of Right to Receive Payment

However, such limitations do not apply to a suit by a holder of a debt security for payment of the principal of or premium, if any, or interest, if any, on such debt security on or after the applicable due date. (See Section 808.)

Annual Notice to Trustee

National will provide to the Trustee an annual statement by an appropriate officer as to National's compliance with all conditions and covenants under the Indenture. (See Section 606.)

Modification and Waiver

National and the Trustee may enter into one or more supplemental indentures without the consent of any holder of debt securities for any of the following purposes: