

GALLAGHER ARTHUR J & CO
Form S-4
March 26, 2002

As filed with the Securities and Exchange Commission on March 26, 2002
Registration No. 333-_____

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-4

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ARTHUR J. GALLAGHER & CO.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

6411
(Primary Standard Industrial
Classification Code Number)

36-2151613
(I.R.S. Emplo
Identification N

Two Pierce Place, Itasca, Illinois 60143-3141, (630) 773-3800
(Address, including zip code and telephone number, including area code,
of registrant's principal executive offices)

JOHN C. ROSENGREN, ESQ.
Vice President and General Counsel
Arthur J. Gallagher & Co.
Two Pierce Place
Itasca, Illinois 60143-3141
(630) 773-3800
(Name, address, including zip code and telephone number, including area code,
of agent for service)

Please Send Copies of All Communications to:

KURT W. FLORIAN, JR., ESQ.
Katten Muchin Zavis
525 West Monroe Street, Suite 1600
Chicago, Illinois 60661-3693
(312) 902-5200

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

If the securities being registered on this Form are being offered in
connection with the formation of a holding company and there is compliance with
General Instruction G, check the following box.

If this Form is filed to register additional securities for an offering

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pursuant to Rule 462(b) under the Securities Act, 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(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. []

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, check the following box. [X]

CALCULATION OF REGISTRATION FEE

| Title of Each Class of Securities to be Registered | Amount to be Registered/(1)/ | Proposed Maximum Offering Price Per Share/(2)/ | Proposed Aggregate Offer |
|--|------------------------------|--|--------------------------|
| Common Stock, \$1.00 par value | 5,940,329 shares | \$32.52 | \$193,179 |

- (1) In addition to the 5,940,329 shares being registered hereby, the prospectus contained herein also relates to shares previously registered on our registration statements nos. 333-75197 and 333-55254. Pursuant to Rule 416(a) under the Securities Act of 1933, the number of shares of common stock registered hereby is subject to adjustment to prevent dilution resulting from stock splits, stock dividends or similar transactions.
- (2) Estimated in accordance with Rule 457(c) solely for the purpose of calculating the registration fee, on the basis of the average high and low prices of our common stock, as reported on the Consolidated Transaction Reporting System for securities listed on the NYSE on March 25, 2002.

As permitted by Rule 429, the prospectus in this registration statement constitutes post-effective amendment no. 2 to registration statement no. 333-75197 which became effective July 9, 1999 and post-effective amendment no. 1 to registration statement no. 333-55254 which became effective February 21, 2001.

We hereby amend this registration statement on such date or dates as may be necessary to delay its effective date until we shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

++++
 + The information contained in this prospectus is not complete and may be +
 + changed. We may not sell these securities until the registration statement +
 + filed with the Securities and Exchange Commission is effective. This +
 + This prospectus is not an offer to sell these securities, and it is not +
 + soliciting any offer to buy these securities in any state where the offer or +
 + sale is not permitted. +
 +++++

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SUBJECT TO COMPLETION, DATED MARCH 26, 2002

PROSPECTUS

[LOGO]

ARTHUR J. GALLAGHER & CO.

12,000,000 SHARES

COMMON STOCK

This prospectus relates to 12,000,000 shares of our common stock which we intend to issue in connection with future acquisitions of other businesses or properties.

Our common stock trades on the New York Stock Exchange under the trading symbol AJG. The last sales price of our stock on March 25, 2002 was \$32.30 per share.

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.

Prospectus dated March __, 2002

This prospectus incorporates important business and financial information that is not included in or delivered with this prospectus. This information is available without charge to security holders upon oral or written request to Arthur J. Gallagher & Co., Two Pierce Place, Itasca, Illinois 60143-3141, Attention: Investor Relations (Tel. (630) 773-3800). To ensure timely delivery of the information, please make any request at least five business days before the day you must make your investment decision. See "Where You Can Find More Information."

We have not authorized any person to provide information or make any representation about this offering that is not in this prospectus. Prospective investors should rely only on the information contained in this prospectus. This prospectus is not an offer to sell nor is it seeking an offer to buy these securities in any jurisdiction where the offer or sale is prohibited. Information in this prospectus is correct only as of its date, regardless of when any later offer or sale occurs.

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THE COMPANY

We provide insurance brokerage, risk management and related services to our clients in the United States and abroad. Our principal business is the negotiation and placement of insurance for our clients. We also specialize in furnishing risk management services. Risk management involves assisting clients in analyzing risks. This analytical process involves determining whether proper protection is best obtained through the purchase of insurance or through retention of all or a portion of those risks and the adoption of corporate risk management policies and cost-effective loss control and prevention programs. Risk management services also include claims management, loss control consulting and property appraisals. We believe that our ability to deliver comprehensively structured risk management and brokerage services is one of our major strengths. In addition, we have a financial services operation that manages our investment portfolio.

We operate through a network of more than 250 offices located throughout the United States and eight countries abroad and through a network of correspondent brokers and consultants in more than 100 countries around the world. Some of these offices are fully staffed with sales, marketing, claims and other service personnel; others function as servicing offices for our brokerage and risk management service operations. Our international operations include a Lloyd's of London broker and affiliated companies in the United Kingdom and other facilities in Australia, Bermuda, Canada, Scotland, Singapore, New Zealand and Papua New Guinea.

We were founded in 1927 and were reincorporated as a Delaware corporation in 1972. Our principal executive offices are located at Two Pierce Place, Itasca, Illinois 60143-3141, and our telephone number is (630) 773-3800.

SELECTED CONSOLIDATED FINANCIAL DATA

The following selected consolidated financial data for each of the five years in the period ended December 31, 2001 have been derived from our consolidated financial statements. Such data should be read in conjunction with our audited consolidated financial statements and related notes, which have been incorporated by reference into this prospectus.

| | Year Ended December 31, (1) | | | |
|--|-----------------------------|------|------|------|
| | 2001 | 2000 | 1999 | 1998 |

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| | ----- | ----- | ----- | ----- |
|--|---|-------------|------------|----------|
| | (In thousands, except per share amount) | | | |
| Consolidated Statement of Earnings Data: | | | | |
| Commissions | \$ 534,450 | \$ 470,244 | \$ 437,706 | \$ 419,4 |
| Fees | 324,864 | 281,235 | 235,879 | 213,3 |
| Investment income and other | 50,729 | 43,794 | 39,945 | 25,2 |
| | ----- | ----- | ----- | ----- |
| Total revenues | 910,043 | 795,273 | 713,530 | 658,1 |
| Total expenses | 768,190 | 661,534 | 586,506 | 574,9 |
| | ----- | ----- | ----- | ----- |
| Earnings before income taxes | 141,853 | 133,739 | 127,024 | 83,1 |
| Net earnings | 125,256 | 92,955 | 83,240 | 66,8 |
| Net earnings per common share (2) | 1.48 | 1.11 | 1.02 | . |
| Net earnings per common and common equivalent share (3) | 1.39 | 1.04 | .97 | . |
| Dividends declared per common share (4) | .52 | .46 | .40 | . |
| Consolidated Balance Sheet Data: | | | | |
| Total assets | \$1,471,823 | \$1,135,488 | \$ 990,608 | \$ 914,4 |
| Short-term borrowings outstanding under line of credit facilities | 35,000 | -- | 15,000 | 15,0 |
| Total stockholders' equity | 371,613 | 328,900 | 260,801 | 268,6 |

-
- (1) The financial information for all periods prior to 2001 has been restated for seven 2001 acquisitions accounted for using the pooling of interests method.
 - (2) Based on weighted average number of common shares outstanding during the year.
 - (3) Based on weighted average number of common and common equivalent shares outstanding during the year.
 - (4) Based on the total dividends declared on a share of common stock outstanding during the entire year.

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PLAN OF DISTRIBUTION

The shares of our common stock covered by this prospectus may be offered and issued by us from time to time in connection with future acquisitions of other businesses or properties.

We expect to offer and sell the shares covered by this prospectus in connection with future acquisitions within the next two years. We anticipate that our future acquisitions will consist principally of additional insurance brokerage and related businesses. The consideration for acquisitions may include cash, including installment payments, shares of common stock, other securities including securities which may be converted into common stock, guarantees, assumptions of liabilities or any two or more of the foregoing, as determined from time to time by negotiations between us and the owners or controlling persons of the businesses or properties to be acquired. In addition, we may enter into employment contracts and non-competition agreements with former owners and key executive personnel of acquired businesses. At this time we are engaged in preliminary discussions with a number of candidates for possible future acquisitions.

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In general, the terms of a future acquisition will be determined by negotiations between our representatives and the owners or controlling persons of the businesses or properties to be acquired, and the factors taken into account in an acquisition may include the established quality and reputation of the business and its management, gross commission revenues, earning power, cash flow, growth potential, location of the business and properties to be acquired and geographical and service diversification resulting from the acquisition. We anticipate that shares of our common stock issued in any future acquisition will be valued at a price reasonably related to the current market value of the common stock as reported for securities listed on the NYSE, either at the time the terms of the acquisition are tentatively agreed upon or at or about the time or times of delivery of the shares. We do not expect to receive any cash proceeds, other than cash balances of acquired companies, in connection with any such issuances.

We do not expect that underwriting discounts or commissions will be paid by us except that finder's fees may be paid to persons from time to time in connection with specific acquisitions. Any person receiving any such fees may be deemed to be an underwriter within the meaning of the Securities Act of 1933.

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AVAILABLE INFORMATION

We file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any document we file with the SEC at the SEC's public reference rooms in Washington, D.C., New York, New York and Chicago, Illinois. Please call the SEC at 1-800-SEC-0330 for further information on the public reference rooms. Our SEC filings are also available to the public from the SEC's website at "<http://www.sec.gov>" and from our website

at "<http://www.ajg.com>." Our common stock is listed on the NYSE under the symbol

"AJG" and the periodic reports, proxy statements and other information we file with the SEC may also be inspected at the offices of the NYSE at 20 Broad Street, New York, New York 10005.

WHERE YOU CAN FIND MORE INFORMATION

The SEC allows us to "incorporate by reference" the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus, and the information that we file later with the SEC will automatically update and supersede this information. We incorporate by reference the documents and information listed below:

- (1) Our Annual Report on Form 10-K for the fiscal year ended December 31, 2001, filed on March 22, 2002.
- (2) The description of our common stock contained in Form 8-A (registration no. 0-13480), which incorporates by reference our registration statement on Form S-1 (registration no. 2-89195), and the description of common share purchase rights currently attached to the common stock contained in Form 8-A (registration no. 0-13480) filed with the SEC on May 12, 1987 and in Current Report on Form 8-K (registration no. 0-13480) filed with the SEC on May 18, 1987.

In addition, this prospectus incorporates by reference any future

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filings we will make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 from the date of the initial filing of the registration statement that includes this prospectus until the termination of the offering. Information in this prospectus supersedes related information in the documents listed above and information in subsequently filed documents supersedes related information in both this prospectus and the incorporated documents.

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

Arthur J. Gallagher & Co.
Two Pierce Place
Itasca, Illinois 60143-3141
Attention: Investor Relations
(630) 773-3800

This prospectus is part of registration statements that we have filed with the SEC. You should rely only on the information or representations provided in this prospectus. We have not authorized anyone to provide you with different information. You should not assume that the information in this prospectus is accurate as of any date other than the date on the front of the document.

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VALIDITY OF COMMON STOCK

For the purpose of this offering, our General Counsel, John C. Rosengren, Esq., is providing an opinion on the validity of the shares. Mr. Rosengren holds 1,600 shares of our common stock and options to purchase 72,200 shares of our common stock.

EXPERTS

Ernst & Young LLP, independent auditors, have audited our consolidated financial statements and schedule included in our Annual Report on Form 10-K for the year ended December 31, 2001, as set forth in their report, which is incorporated by reference in this prospectus. Our consolidated financial statements and schedule are incorporated by reference in reliance on Ernst & Young LLP's report, given on their authority as experts in accounting and auditing.

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PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 20. Indemnification of Directors and Officers

Article Seventh of our By-laws (filed as Exhibit 3.2) and Article Thirteenth of our Restated Certificate of Incorporation (filed as Exhibit 3.1) provide in effect for our indemnification of each of our directors, officers, employees or agents to the full extent permitted by the Delaware General Corporation Law.

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Article Seventh of our By-laws provides that we shall indemnify any person in connection with any action, suit, or proceeding brought or threatened by reason of the fact that he or she is or was one of our directors, officers, employees or agents, or is or was serving at our request as a director, officer, employee or agent of another enterprise, against all costs actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to our best interests, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. Similar indemnity is permitted to be provided to such persons in connection with an action or suit by us or in our right, and provided further that such person shall not have been adjudged liable for negligence or misconduct in the performance of his or her duty to us, unless, in view of all the circumstances of the case, the court in which the action or suit was brought determines that such person despite the adjudication of liability is fairly and reasonably entitled to indemnity for such expenses.

Article Thirteenth of our Restated Certificate of Incorporation eliminates the liability of our directors for monetary damages for breach of fiduciary duty as a director except where a director breaches his or her duty of loyalty to us and our stockholders, fails to act in good faith or engages in intentional misconduct or a knowing violation of law, authorizes the payment of a dividend or stock repurchase which is illegal under Section 174 of the Delaware General Corporation Laws or obtains an improper personal benefit.

We also maintain and pay premiums on a directors' and officers' liability insurance policy and have entered into an indemnity agreement with each of our directors and officers. The provisions of the indemnity agreement alter or clarify the statutory indemnity in the following respect: (1) indemnity will be explicitly provided for settlements in derivative actions; (2) prompt payment of litigation expenses will be provided in advance of indemnification; (3) prompt indemnification of advances of expenses will be provided unless a determination is made that the director or officer has not met the required standard; (4) the director or officer will be permitted to petition a court to determine whether his actions meet the standards required; and (5) partial indemnification will be permitted in the event that the director or officer is not entitled to full indemnification. In addition, the indemnity agreement specifically includes indemnification with respect to actions, suits or proceedings brought under and/or predicated upon the Securities Act of 1933 and/or the Securities Exchange Act of 1934.

The preceding summary is qualified in its entirety by our Restated Certificate of Incorporation, By-laws and the indemnity agreements.

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Item 21. Exhibits and Financial Statement Schedules

(a) The following exhibits are filed herewith or incorporated herein by reference.

| Exhibit No. | Description of Exhibit | Location |
|-------------|--|---|
| 3.1 | Our Restated Certificate of Incorporation. | Incorporated by reference to the same exhibit number in our 10-Q quarterly report for the quarterly period ended 12/31/1996, file no. 1-9761. |

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| | | |
|-------|--|---|
| 3.1.1 | Certificate of Amendment of our Restated Certificate of Incorporation. | Incorporated by reference to the same exhibit number to our Form 10-Q quarterly report for the quarterly period ended June 30, 2000, file no. 1-9761. |
| 3.1.2 | Certificate of Amendment of our Restated Certificate of Incorporation. | Incorporated by reference to the same exhibit number to our Form 10-Q quarterly report for the quarterly period ended June 30, 2001, file no. 1-9761. |
| 3.2 | Our By-Laws. | Incorporated by reference to the same exhibit number to our Form S-1 registration statement no. 33-10447. |
| 3.3 | Rights Agreement between us and Bank of America Illinois (formerly Continental Illinois National Bank and Trust Company of Chicago). | Incorporated by reference to exhibits 1 and 2 to our Form S-1 registration statement filed May 12, 1987, file no. 33-10447. |
| 3.4 | Assignment and Assumption Agreement of Rights Agreement by and among Bank of America Illinois formerly Continental Illinois National Bank and Trust Company of Chicago), Harris Trust and Savings Bank and us. | Incorporated by reference to the same exhibit number to our Form S-8 registration statement no. 33-38031. |
| 3.5 | Amendment no. 1 to exhibit 3.3. | Incorporated by reference to the same exhibit number to our Form 10-Q quarterly report for the quarterly period ended June 30, 1996, file no. 1-9761. |
| 4.1 | Instruments defining the rights of security holders. | Relevant portions contained in our Restated Certificate of Incorporation and By-Laws and the Rights Agreement, exhibits 3.1, 3.2 and 3.3, respectively, hereby incorporated by reference. |
| 5.0 | Opinion of John C. Rosengren, our Vice President and General Counsel, including consent. | |
| 23.1 | Consent of Ernst & Young LLP, as independent auditors. | |
| 23.2 | Consent of John C. Rosengren, our Vice President and General Counsel. | Included in exhibit 5.0. |
| 24.0 | Powers of Attorney. | |

(b) Financial Statement Schedules:

Schedule II Valuation and Qualifying Accounts is incorporated herein by reference to our Form 10-K annual report for 2001, file no. 1-9761.

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All other exhibits and schedules are omitted because they are not applicable or not required or because the required information is included in the consolidated financial statements or notes thereto.

Item 22. Undertakings

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We hereby undertake as follows:

(1) To file, during any period in which any offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement.

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(5) That prior to any public reoffering of the securities registered hereunder through use of a prospectus which is a part of this registration statement, by any person or party who is deemed to be an underwriter within the meaning of Rule 145(c), the issuer undertakes that such reoffering prospectus will contain the information called for by the applicable registration form with respect to reofferings by persons who may be deemed underwriters, in addition to the information called for by the other items of the applicable form.

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(6) That every prospectus (i) that is filed pursuant to paragraph (5) immediately preceding, or (ii) that purports to meet the requirements of Section 10(a)(3) of the Securities Act of 1933 and is used in connection with an

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offering of securities subject to Rule 415, will be filed as a part of an amendment to the registration statement and will not be used until such amendment is effective, and that, for purposes of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(7) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

(8) To respond to requests for information that is incorporated by reference into the prospectus pursuant to Item 4, 10(b), 11, or 13 of this Form, within one business day of receipt of such request, and to send the incorporated documents by first class mail or other equally prompt means. This includes information contained in documents filed subsequent to the effective date of the registration statement through the date of responding to the request.

(9) To supply by means of a post-effective amendment all information concerning a transaction, and the company being acquired involved therein, that was not the subject of and included in the registration statement when it became effective, except where the transaction in which the securities being offered pursuant to the registration statement would itself qualify for an exemption under Section 5 of the Securities Act of 1933, absent the existence of other similar (prior or subsequent) transactions.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, Arthur J. Gallagher & Co. has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Itasca, State of Illinois, on the 26/th/ day of March, 2002.

ARTHUR J. GALLAGHER & CO.

By: /s/ J. Patrick Gallagher, Jr.

J. Patrick Gallagher, Jr.
President and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed below on March 26, 2002 by the following persons in the capacities indicated.

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| Signature | Title |
|--|---|
| ----- /s/ Robert E. Gallagher* ----- (Robert E. Gallagher) | Chairman and Director |
| ----- /s/ J. Patrick Gallagher, Jr. ----- (J. Patrick Gallagher, Jr.) | President and Director (Chief Executive Officer) |
| ----- /s/ Michael J. Cloherty ----- (Michael J. Cloherty) | Executive Vice President and Director (Chief Financial Officer) |
| ----- /s/ Richard C. Cary ----- (Richard C. Cary) | Controller (Chief Accounting Officer) |
| ----- /s/ James J. Braniff III* ----- (James J. Braniff III) | Director |
| ----- /s/ T. Kimball Brooker* ----- (T. Kimball Brooker) | Director |
| ----- /s/ Gary P. Coughlan* ----- (Gary P. Coughlan) | Director |
| ----- /s/ James W. Durkin, Jr.* ----- (James W. Durkin, Jr.) | Director |
| ----- /s/ Ilene S. Gordon* ----- (Ilene S. Gordon) | Director |
| ----- /s/ David E. McGurn, Jr.* ----- (David E. McGurn, Jr.) | Director |
| ----- /s Richard J. McKenna* ----- (Richard J. McKenna) | Director |
| ----- /s/ Robert Ripp* ----- (Robert Ripp) | Director |
| ----- /s/ James R. Wimmer* ----- (James R. Wimmer) | Director |

*By: /S/ John C. Rosengren

John C. Rosengren,
Attorney-in-fact

