

CONCERTO SOFTWARE INC  
Form SC 13E3/A  
December 08, 2003

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**SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

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**SCHEDULE 13E-3**

**(RULE 13e-100)**

**TRANSACTION STATEMENT UNDER SECTION 13(e)  
OF THE SECURITIES EXCHANGE ACT OF 1934 AND RULE 13e-3 THEREUNDER**

**RULE 13E-3 TRANSACTION UNDER SECTION 13(e)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

**(Amendment No. 1)**

**CONCERTO SOFTWARE, INC.**

**(Name of the Issuer)**

**CONCERTO SOFTWARE, INC.**

**BACH MERGER SUB, INC.**

**MELITA INTERNATIONAL LTD.**

**MELITA INTERNATIONAL INC.**

**RALPH S. BRESLAUER**

**JAMES D. FOY**

**MICHAEL J. PROVENZANO, III**

**ALEXANDER TELLEZ**

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(Name of Persons Filing Statement)

**COMMON STOCK, \$.10 PAR VALUE PER SHARE**

(Title of Class of Securities)

**20602T106**

(CUSIP Number of Class of Securities)

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**James D. Foy**

**Chief Executive Officer and President**

**c/o Concerto Software, Inc.**

**6 Technology Park Drive**

**Westford, Massachusetts 01886**

(Name, Address and Telephone Number of Person

Authorized to Receive Notices and Communications on

Behalf of the Persons Filing Statement)

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This statement is filed in connection with (check the appropriate box):

(a)  The filing of solicitation materials or an information statement subject to Regulation 14A, Regulation 14C, or Rule 13e-3(c) under the Securities Exchange Act of 1934.

(b)  The filing of a registration statement under the Securities Act of 1933.

(c)  A tender offer.

(d)  None of the above.

Check the following box if the soliciting materials or information statement referred to in checking box (a) are preliminary copies.

Check the following box if the filing is a final amendment reporting the results of the transaction.

**CALCULATION OF FILING FEE**

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Transaction Valuation	\$ 140,871,121*	Amount of Filing Fee: \$ 11,396.47**
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\* For purposes of calculating the fee only. The amount assumes (i) the exchange of 11,013,431 shares of common stock, \$.10 par value per share (the Common Stock), of Concerto Software, Inc. for a \$12.00 per share merger consideration and (ii) the conversion of options to purchase 2,172,057 shares of Common Stock, with a weighted average exercise price of \$7.99, into a right to receive a cash payment equal to the product of (1) the number of shares underlying such options and (2) the difference between \$12.00 and the per share exercise price of such options.

\*\* The amount of the filing fee is calculated in accordance with Rule 0-11 of the Securities Exchange Act of 1934.

x Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: \$11,396.47  
Form or Registration No.: Schedule 14A

Filing Party: Concerto Software, Inc.  
Date Filed: October 29, 2003

## INTRODUCTION

This Amendment No. 1 to Rule 13e-3 Transaction Statement on Schedule 13E-3 (the "Schedule 13E-3") relates to an Agreement and Plan of Merger dated as of October 7, 2003 (as amended from time to time, the "Merger Agreement"), by and among Bach Merger Sub, Inc., a Delaware corporation ("Merger Sub"), Melita International Ltd., a Cayman Islands company ("Melita") and Concerto Software, Inc., a Delaware corporation ("Concerto"). Pursuant to the Merger Agreement, Concerto will continue as the surviving corporation, and each issued and outstanding share of common stock of Concerto, other than shares held by dissenting stockholders and certain shares held by R. Scott Asen, a director of Concerto, will be cancelled and converted into the right to receive a cash payment per share, without interest, of \$12.00. As a result of the Merger, Concerto, the issuer of the equity securities which are the subject of the Rule 13e-3 transaction, will become a wholly-owned indirect subsidiary of Melita. This Schedule 13E-3 is being filed by Ralph S. Breslauer, James D. Foy, Michael J. Provenzano, III, Alexander Tellez, Concerto, Merger Sub, a wholly-owned indirect subsidiary of Melita, Melita International Inc., a wholly-owned indirect subsidiary of Melita, and Melita (each a "Filing Person" and collectively, the "Filing Persons"), though each Filing Person expressly disclaims any obligation to file this Schedule 13E-3.

Concurrently with the filing of this Schedule 13E-3, Concerto is filing an amended preliminary proxy statement (the "Proxy Statement") pursuant to Section 14(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), pursuant to which the Concerto board of directors is soliciting proxies from stockholders of Concerto in connection with the Merger. A copy of the Proxy Statement is attached hereto as Exhibit (a). A copy of the Merger Agreement is filed as Annex A to the Proxy Statement. The information in the Proxy Statement, including all annexes thereto, is expressly incorporated by reference herein in its entirety and responses to each item herein are qualified in their entirety by the information contained in the Proxy Statement and the annexes thereto. Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Proxy Statement.

The following responses and cross-references are being supplied pursuant to General Instructions F and G to Schedule 13E-3 and show the locations in the Proxy Statement (including all annexes and appendices thereto) of the information required to be included in response to the items of this Schedule 13E-3.

### **Item 1. Summary Term Sheet.**

#### **Regulation M-A**

##### **Item 1001**

The information set forth in the sections entitled "Questions and Answers About the Merger," "Summary Term Sheet," "The Participants in the Merger" and "Special Factors - Identity and Background of the Participants in the Merger" of the Proxy Statement is incorporated herein by reference.

### **Item 2. Subject Company Information.**

#### **Regulation M-A**

##### **Item 1002**

(a) Concerto is the subject company of this Schedule 13E-3. The information set forth in the sections of the Proxy Statement entitled "Summary Term Sheet," "The Participants in the Merger," and "Special Factors - Identities and Backgrounds of the Participants in the Merger" is incorporated herein by reference.

(b)-(d) The Common Stock is the subject class of equity securities. The information set forth in the section of the Proxy Statement entitled Certain Information Concerning Our Company Price Range of Shares; Dividends; and Stock Repurchases is incorporated herein by reference.

(e) Not applicable.

(f) The information set forth in the section of the Proxy Statement entitled Certain Information Concerning our Company Price Range of Shares; Dividends; and Stock Repurchases is incorporated herein by reference.

### **Item 3. Identity and Background of Filing Persons.**

#### **Regulation M-A**

#### **Item 1003**

(a)-(c) This Schedule 13E-3 is being filed by the Filing Persons. The information set forth in the sections of the Proxy Statement entitled Summary Term Sheet The Participants in the Merger and Special Factors Identity and Background of the Participants in the Merger is incorporated herein by reference.

*Directors and Executive Officers of Concerto.* Set forth below is biographical information regarding each director and executive officer of Concerto not included in the Proxy Statement based on information supplied by them. Each person identified below is a United States citizen, unless otherwise noted. Unless indicated otherwise, each person's principal address is c/o Concerto Software, Inc., 6 Technology Park Drive, Westford, MA 01886, (978) 952-0200.

Alphonse M. Lucchese has served as a director and chairman of the board of directors of Concerto since August 9, 1994. In addition, Mr. Lucchese served as president of Concerto from July 1, 1994 until January 12, 1998 and from May 4, 1999 until November 7, 2000, and as chief executive officer of Concerto from July 1, 1994 until November 7, 2000. On November 7, 2000, Mr. Lucchese retired from the positions of president and chief executive officer. Additionally, Mr. Lucchese currently serves as a director of Excelergy Corporation and OutStart, Inc. and also serves on the board of trustees of Marco Island Healthcare.

R. Scott Asen has served as a director of Concerto since April 1992. Since November 1997, Mr. Asen has been a general partner of AB Associates, LP, an investment management entity. Mr. Asen has also served as President of Asen & Co., Inc., an investment management firm, since 1983. Mr. Asen can be reached c/o Asen & Co., 224 East 49<sup>th</sup> Street, New York, New York 10017, (212) 758-2323.

Peter Gyenes has served as a director of Concerto since May 2000. Mr. Gyenes has been the chief executive officer of Ascential Software Corporation (formerly Informix Corporation), a data integration software company, since July 2000. Prior to joining Ascential Software Corporation, Mr. Gyenes was the chief executive officer of Ardent Software Inc. (formerly Vmark Software Inc.), a data management software company, from 1997 until 2000 and vice president of sales for Vmark Software from 1996 until 1997. Additionally, Mr. Gyenes currently serves as a director of Applix Inc. and ViryaNet Ltd. Mr. Gyenes can be reached c/o Ascential Software Corporation, 50 Washington Street, Westborough, MA 01581, (508) 366-3888. Ardent Software Inc., Vmark Software Inc. and Informix Corporation share the same address as

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Ascential Software Corporation.

Mark Donovan has served as senior vice president, operations and customer services of Concerto since May 1998. Mr. Donovan joined Concerto in September 1983 and has held various management positions including vice president, customer service from June 1992 through June 1994.

Kristina Lengyel has served as vice president, global technical services of Concerto since January 1, 2003. Ms. Lengyel joined Concerto in January 2002 in the position of vice president of professional services. Prior to joining Concerto, Ms. Lengyel served as senior vice president of operations and chief technology officer from December 2000 through June 2001, vice president for engineering from October 1999 through December 2000, and vice president for customer integration services from August 1996 through October 1999 at INSCI Corp, a provider of document management solutions. The offices of INSCI Corp. are located at Two Westborough Business Park, 200 Friberg Parkway, Suite 2000, Westborough, MA 01581.

No person specified above: (a) has been convicted in a criminal proceeding during the past five years (excluding traffic violations or similar misdemeanors) or (b) was a party to any judicial or administrative proceeding during the past five years (except for matters that were dismissed without sanction or settlement) that resulted in a judgment, decree or final order enjoining the person from future violations of, or prohibiting activities subject to, federal or state securities laws, or a finding of any violation of federal or state securities laws.

**Item 4. Terms of the Transaction.**

**Regulation M-A**

**Item 1004**

(a)(2) The information set forth in the cover page of the Proxy Statement and in the sections of the Proxy Statement entitled Question and Answers About the Merger, Summary Term Sheet, Special Factors The Reasons of the Special Committee and the Board of Directors for the Merger; Recommendations; Fairness of the Merger, Special Factors Position of our Board of Directors as to the Procedural Fairness of the Merger, Special Factors The Reasons of Management Investors for the Merger and Fairness of the Merger, Special Factors the Belief of Merger Sub, Melita and Melita Inc. as to the Fairness of the Merger, Special Factors Purposes and Effects of the Merger and Plans or Proposals, Special Factors Interests of Certain Persons in the Merger, The Special Meeting Required Votes, The Special Meeting The Merger Agreement The Special Meeting Accounting Treatment and The Special Meeting Material United States Federal Income Tax Consequences of the Merger is incorporated herein by reference.

(b) Not applicable.

(c) The information set forth in the sections of the Proxy Statement entitled The Special Meeting The Merger Agreement and Special Factors Interests of Certain Persons in the Merger is incorporated herein by reference.

(d) The information set forth in the section of the Proxy Statement entitled The Special Meeting Appraisal Rights is incorporated herein by reference.

(e) No provisions have been made except as set forth in the section of the Proxy Statement entitled Available Information which information is incorporated herein by reference.

(f) Not applicable.

**Item 5. Past Contacts, Transactions, Negotiations and Agreements.**

**Regulation M-A**



**Item 1005**

(a) The information set forth in the sections of the Proxy Statement entitled "Certain Information Concerning Our Company" and "Special Factors - Interests of Certain Persons in the Merger" is incorporated herein by reference.

(b)-(c) The information set forth in the section of the Proxy Statement entitled "Special Factors - Background of the Merger" is incorporated herein by reference.

(e) The information set forth in the sections of the Proxy Statement entitled "Special Factors - Interests of Certain Persons in the Merger," "Certain Information Concerning Our Company - Price Range of Shares; Dividends; and Stock Repurchases" and "The Special Meeting - The Merger Agreement" is incorporated herein by reference.

**Item 6. Purposes of the Transaction and Plans or Proposals.**

**Regulation M-A**

**Item 1006**

(b) The information set forth in the sections of the Proxy Statement entitled The Special Meeting The Merger Agreement Merger Agreement Merger, The Special Meeting The Merger Agreement Merger Agreement Merger Consideration, The Special Meeting The Merger Agreement Merger Agreement Treatment of Options, The Special Meeting The Merger Agreement Merger Agreement Treatment of Purchase Plan Options and The Special Meeting The Merger Agreement Merger Agreement Dissenting Shares is incorporated herein by reference.

(c) The information set forth in the sections of the Proxy Statement entitled Summary Term Sheet, Questions and Answers about the Merger, Special Factors Purposes and Effects of the Merger and Plans or Proposals and The Special Meeting The Merger Agreement is incorporated herein by reference.

**Item 7. Purposes, Alternatives, Reasons and Effects.**

**Regulation M-A**

**Item 1013**

(a)-(d) The information set forth in the sections of the Proxy Statement entitled Questions and Answers about the Merger, Summary Term Sheet, Special Factors Background of the Merger, Special Factors The Reasons of the Special Committee and the Board of Directors for the Merger; Recommendations; Fairness of the Merger, Special Factors Position of our Board of Directors as to the Procedural Fairness of the Merger, Special Factors The Reasons of Management Investors for the Merger and Fairness of the Merger, Special Factors The Belief of Merger Sub, Melita and Melita Inc. as to the Fairness of the Merger, Special Factors Purposes and Effects of the Merger and Plans or Proposals, and The Special Meeting Material United States Federal Income Tax Consequences of the Merger is incorporated herein by reference.

**Item 8. Fairness of the Transaction.**

**Regulation M-A**

**Item 1014**

(a)-(b) The information set forth in the sections of the Proxy Statement entitled Special Factors The Reasons of the Special Committee and the Board of Directors for the Merger; Recommendations; Fairness of the Merger, Special Factors Position of our Board of Directors as to the Procedural Fairness of the Merger, Special Factors The Reasons of Management Investors for the Merger and Fairness of the Merger, Special Factors The Belief of Merger Sub, Melita and Melita Inc. as to the Fairness of the Merger and Special Factors Purposes and Effects of the Merger and Plans or Proposals is incorporated herein by reference.

(c) The information set forth in the section of the Proxy Statement entitled "Special Factors – The Reasons of the Special Committee and the Board of Directors for the Merger; Recommendations; Fairness of the Merger" is incorporated herein by reference.

(d) The information set forth in the sections of the Proxy Statement entitled "Special Factors – The Reasons of the Special Committee and the Board of Directors for the Merger; Recommendations; Fairness of the Merger" and "Special Factors – Position of our Board of Directors as to the Procedural Fairness of the Merger" is incorporated herein by reference.

(e) The information set forth in the section of the Proxy Statement entitled "Special Factors – The Reasons of the Special Committee and the Board of Directors for the Merger; Recommendations; Fairness of the Merger" is incorporated herein by reference.

(f) The information set forth in the section of the Proxy Statement entitled Special Factors Background of the Merger and Special Factors The Reasons of the Special Committee and the Board of Directors for the Merger; Recommendations; Fairness of the Merger is incorporated herein by reference.

**Item 9. Reports, Opinions, Appraisals and Negotiations.**

**Regulation M-A**

**Item 1015**

(a)-(c) The information set forth in the sections of the Proxy Statement entitled Special Factors Opinion of SG Cowen Securities Corporation, and Available Information is incorporated herein by reference.

**Item 10. Source and Amounts of Funds or Other Consideration.**

**Regulation M-A**

**Item 1007**

(a)-(b) The information set forth in the section of the Proxy Statement entitled The Special Meeting Merger Financing is incorporated herein by reference.

(c) The information set forth in the sections of the Proxy Statement entitled Special Factors Interests of Certain Persons in the Merger, The Special Meeting Estimated Fees and Expenses of the Merger and The Special Meeting The Merger Agreement The Merger Agreement Expenses; Termination Fee is incorporated herein by reference.

(d) The information set forth in the section of the Proxy Statement entitled The Special Meeting Merger Financing is incorporated herein by reference.

**Item 11. Interest in Securities of the Subject Company.**

**Regulation M-A**

**Item 1008**

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(a)-(b) The information set forth in the sections of the Proxy Statement entitled Certain Beneficial Ownership of Shares and Special Factors Interests of Certain Persons in the Merger is incorporated herein by reference.

### **Item 12. The Solicitation or Recommendation.**

#### **Regulation M-A**

#### **Item 1012**

(d)-(e) The information set forth in the sections of the Proxy Statement entitled Summary Term Sheet Stockholder Vote; Ownership of Our Directors and Executive Officers, Special Factors Interests of Certain Persons in the Merger, The Reasons of the Special Committee and the Board of Directors for the Merger; Recommendations; Fairness of the Merger, Special Factors The Belief of Merger Sub, Melita and Melita Inc. as to the Fairness of the Merger and Special Factors The Reasons of Management Investors for the Merger and Fairness of the Merger is incorporated herein by reference.

### **Item 13. Financial Statements.**

#### **Regulation M-A**

#### **Item 1010**

(a) (1)-(4) The information set forth in the section of the Proxy Statement entitled Certain Information Concerning our Company Selected Historical Data is incorporated herein by reference.

(b) Not applicable.

**Item 14. Persons/Assets Employed, Retained, Compensated or Used.**

**Regulation M-A**

**Item 1009**

(a)-(b) The information set forth in the sections of the Proxy Statement entitled "Special Factors - Background of the Merger," "Special Factors - Interests of Certain Persons in the Merger," "Special Factors - Opinion of SG Cowen Securities Corporation" and "The Special Meeting - Solicitation of Proxies" is incorporated herein by reference.

**Item 15. Additional Information.**

**Regulation M-A**

**Item 1011**

Additional information as set forth in the Proxy Statement, including the Annexes thereto, and the information set forth in the section of the Proxy Statement entitled "Certain Legal Matters and Regulatory Approvals" is incorporated herein by reference in its entirety.

**Item 16. Exhibits.**

**Regulation M-A**

**Item 1016**

(a) Amendment No. 1 to the Preliminary Proxy Statement on Schedule 14A filed with the Securities and Exchange Commission on December 5, 2003 and incorporated herein by reference.

(b)(1)\* Commitment Letter, dated as of October 7, 2003, from affiliates of Golden Gate Capital to Melita.

(b)(2)\* Commitment Letter, dated as of October 7, 2003, from affiliates of Oak Investment Partners to Melita.

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(b)(3)\* Commitment Letter, dated as of October 6, 2003, from Wells Fargo Foothill, Inc. to Melita Inc.

(b)(4)\* Commitment Letter, dated as of October 28, 2003, from Highbridge/Zwirn Special Opportunities Fund, L.P. to Melita Inc.

(b)(5)\* Joinder to Commitment Letter and Commitment Side Letter, dated as of October 28, 2003, from CapitalSource Finance LLC to Melita Inc.

(c)(1) Opinion Letter, dated as of October 7, 2003, from SG Cowen Securities Corporation to the Special Committee of the Board of Directors of Concerto (incorporated herein by reference to Annex B to the Proxy Statement).

(c)(2)\* Fairness Opinion Presentation, dated as of October 7, 2003, prepared by SG Cowen Securities Corporation.

(c)(3)\* Fairness Opinion Presentation, dated as of September 26, 2003, prepared by SG Cowen Securities Corporation.

(c)(4)\* Preliminary Discussion of Strategic Alternatives, dated as of August 29, 2003, prepared by SG Cowen Securities Corporation.

(d)(1) Agreement and Plan of Merger, dated as of October 7, 2003, by and among Melita, Merger Sub and Concerto (incorporated herein by reference to Annex A to the Proxy Statement).

(d)(2)\* Outline of Principal Terms for Management Arrangements with Newco, dated as of October 7, 2003, by and among James D. Foy, Ralph S. Breslauer, Michael J. Provenzano, III and Melita.

(f) Delaware General Corporation Law Appraisal Rights (incorporated herein by reference to Annex C to the Proxy Statement).

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\* Previously filed as an exhibit to Schedule 13E-3 filed with the Securities and Exchange Commission on October 29, 2003.





/s/ ALEXANDER TELLEZ

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Alexander Tellez

**EXHIBIT INDEX**

- (a) Amendment No. 1 to the Preliminary Proxy Statement on Schedule 14A filed with the Securities and Exchange Commission on December 5, 2003 and incorporated herein by reference.
- (b)(1)\* Commitment Letter, dated as of October 7, 2003, from affiliates of Golden Gate Capital to Melita.
- (b)(2)\* Commitment Letter, dated as of October 7, 2003, from affiliates of Oak Investment Partners to Melita.
- (b)(3)\* Commitment Letter, dated as of October 6, 2003, from Wells Fargo Foothill, Inc. to Melita Inc.
- (b)(4)\* Commitment Letter, dated as of October 28, 2003, from Highbridge/Zwirn Special Opportunities Fund, L.P. to Melita Inc.
- (b)(5)\* Joinder to Commitment Letter and Commitment Side Letter, dated as of October 28, 2003, from CapitalSource Finance LLC to Melita Inc.
- (c)(1) Opinion Letter, dated as of October 7, 2003, from SG Cowen Securities Corporation to the Special Committee of the Board of Directors of Concerto (incorporated herein by reference to Annex B to the Proxy Statement).
- (c)(2)\* Fairness Opinion Presentation, dated as of October 7, 2003, prepared by SG Cowen Securities Corporation.
- (c)(3)\* Fairness Opinion Presentation, dated as of September 26, 2003, prepared by SG Cowen Securities Corporation.
- (c)(4)\* Preliminary Discussion of Strategic Alternatives, dated as of August 29, 2003, prepared by SG Cowen Securities Corporation.
- (d)(1) Agreement and Plan of Merger, dated as of October 7, 2003, by and among Melita, Merger Sub and Concerto (incorporated herein by reference to Annex A to the Proxy Statement).
- (d)(2)\* Outline of Principal Terms for Management Arrangements with Newco, dated as of October 7, 2003, by and among James D. Foy, Ralph S. Breslauer, Michael J. Provenzano, III and Melita.

(f) Delaware General Corporation Law Appraisal Rights (incorporated herein by reference to Annex C to the Proxy Statement).

\* Previously filed as an exhibit to Schedule 13E-3 filed with the Securities and Exchange Commission on October 29, 2003.

Our accounting policies and accounting estimates critical to our financial condition and results of operations are set forth in our Annual Report and did not change during the first quarter of 2011.

**New Accounting Pronouncements Not Yet Adopted**

None. See Part I Financial Statements, Item 1 Note 2 "New Accounting Pronouncements" to the unaudited condensed consolidated financial statements for a description of new accounting pronouncements that we have adopted.

**ITEM 3. Quantitative and Qualitative Disclosures About Market Risk**

We are exposed to fluctuations in interest rates, foreign currencies and the prices of production, commodities and packaging materials. We have established policies and procedures to govern the strategic management of these exposures through the use of a variety of financial instruments including: foreign currency forwards, cross currency swaps, and commodity swaps. We also use physical hedging agreements to manage our exposures to certain commodities.

For details of our derivative instruments that are presented on the balance sheet, including their fair values as of period end, see Part I Financial Statements, Item 1 Note 13 "Derivative Instruments and Hedging Activities," to the unaudited condensed consolidated financial statements. On a rolling twelve-month basis, maturities of derivative financial instruments held on March 26, 2011, are as follows:

Total	Less than 1 year	1 - 3 years	3 - 5 years	More than 5 years
(In millions)				
\$ 471.7	\$ 25.5	\$ 446.2	\$	\$

*Sensitivity Analysis*

Our market sensitive derivative and other financial instruments, as defined by the Securities and Exchange Commission ("SEC"), are foreign currency forward contracts, commodity swaps, interest rate swaps, cross currency swaps and total return swaps. We monitor foreign exchange risk, interest rate risk, commodity risk, equity price risk and related derivatives using sensitivity analysis.

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The following table presents the results of the sensitivity analysis, which reflects the impact of a hypothetical 10% adverse change in the applicable market interest rates, foreign exchange rates, and commodity prices of our derivative and debt portfolio:

Estimated fair value volatility	As of	
	March 26, 2011	December 25, 2010
(In millions)		
<b>Foreign currency risk:</b>		
Forwards	\$ (5.7)	\$ (2.3)
<b>Interest rate risk:</b>		
Debt	\$ (202.9)	\$ (229.0)
<b>Commodity price risk:</b>		
Swaps	\$ (3.9)	\$ (2.4)
<b>Cross currency risk:</b>		
Swaps	\$ (3.7)	\$ (4.5)

The volatility of the applicable rates and prices are dependent on many factors that cannot be forecast with reliable accuracy. Therefore, actual changes in fair values could differ significantly from the results presented in the table above.

**ITEM 4. Controls and Procedures***Evaluation of Disclosure Controls and Procedures*

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of our disclosure controls and procedures as such item is defined under Rule 13a-15(f) under the Securities Exchange Act of 1934, as amended ("Exchange Act"). Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of March 26, 2011 to provide reasonable assurance that information required to be disclosed in our reports under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC rules and forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. Management necessarily applies its judgment in assessing the costs and benefits of such controls and procedures that, by their nature, can only provide reasonable assurance regarding management's control objectives. Also, we have investments in certain unconsolidated entities that we do not control or manage.

*Changes in Internal Control over Financial Reporting*

There were no changes in the Company's internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) during the quarter ended March 26, 2011, that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting. During the second quarter of 2011, in our U.K. segment, we plan to implement certain modules of an Enterprise Resource Planning system which will impact the U.K. segment's general ledger accounting and transaction activities, as well as logistics and production planning processes. As a result of this implementation, certain internal controls over financial reporting in our U.K. segment will be changed to address the new environment associated with the implementation of this system.

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**PART II. Other Information**

**ITEM 1. Legal Proceedings**

The Company is a party to various legal proceedings arising from the normal course of business as described in Part I Financial Statements, Item 1 Note 15, "Commitments and Contingencies - Litigation and Other Disputes" to the unaudited condensed consolidated financial statements, which if decided adversely to or settled by MCBC, may, individually or in the aggregate, be material to our financial condition or results of operations. We may enter into discussions regarding settlement of these and other lawsuits, and may enter into settlement agreements if we believe such settlement is in the best interests of our stockholders.

In 1999, Molson entered into an agreement for the distribution of Molson products in Brazil. In 2000, before commencing that business, Molson terminated the distribution agreement and paid the distributor \$150,000 in settlement. The distributor then sued Molson to set aside the settlement and to seek additional compensation. The Appellate Court of the State of Rio de Janeiro ("Appellate Court") set aside the settlement agreement and determined that Molson was liable to the distributor, with the amount of damages to be determined through subsequent proceedings. An appeal of the liability decision is currently pending before the Brazilian Superior Court of Justice, which allowed Molson's appeal during the fourth quarter of fiscal year 2009 and agreed to hear the merits of Molson's appeal. With respect to damages, the case was remanded to a Rio de Janeiro trial court to determine the amount of damages. The trial court retained an expert who provided a report adopting the position of the distributor and recommended damages based on a business plan that was never implemented. Molson challenged the irregularity of the expert process, the impartiality of the expert, as well as the report's specific recommendation. The trial court denied Molson's challenges. Molson filed an appeal before the Appellate Court regarding these procedural irregularities, which was denied during the fourth quarter of fiscal year 2009. Following the trial court's procedural ruling during the third quarter of 2009, that court handed down a decision in the distributor's favor granting the full amount of the lost anticipated profits alleged by the distributor, approximately \$42 million, plus attorney's fees and interest. Molson appealed the judgment to the Appellate Court. During the fourth quarter of 2009, the Appellate Court directed the court-retained expert to explain the basis for his damages calculation. During the first quarter of 2010, the Appellate Court granted Molson's appeal and vacated the \$42 million judgment. The Appellate Court remanded the proceeding to the trial court and ordered that court to select a different expert. The Appellate Court furthermore directed the trial court to use specific criteria in setting damages, the effect of which should be to substantially reduce the award. Molson sought clarification as to the precise criteria to be used. In late April 2010, the Appellate Court denied Molson's motion for clarification, but limited the accrual of interest in this matter. In mid October 2010, the Appellate Court denied the distributor's motion to set aside the vacation of the \$42 million judgment. We will continue to defend this case vigorously, and believe that a material adverse result is not probable.

We are involved in other disputes and legal actions arising in the ordinary course of our business. While it is not feasible to predict or determine the outcome of these proceedings, in our opinion, based on a review with legal counsel, none of these disputes and legal actions is expected to have a material impact on our consolidated financial position, results of operations or cash flows. However, litigation is subject to inherent uncertainties, and an adverse result in these or other matters, may arise from time to time that may harm our business.

**ITEM 1A. Risk Factors**

In addition to the other information set forth in this report, you should carefully consider the factors discussed in Part I, "Item 1A. Risk Factors" in our Annual Report, which could materially affect our business, financial condition and/or future results. The risks described in our Annual Report are not the only risks facing our Company. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition and/or future results.

**ITEM 2. Unregistered Sales of Equity Securities and use of proceeds**

None

Table of Contents**ITEM 3. Defaults upon Senior Securities**

None

**ITEM 4. [Removed and Reserved]****ITEM 5. Other Information**

None

**ITEM 6. Exhibits**

The following are filed as a part of this Report on Form 10-Q:

**(a) Exhibits**

Exhibit Number	Document Description
31.1	Section 302 Certification of Chief Executive Officer.
31.2	Section 302 Certification of Chief Financial Officer.
32	Written Statement of Chief Executive Officer and Chief Financial Officer furnished pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 USC. Section 1350).
99.1	Credit Agreement, dated March 2, 2005, among Molson Coors Brewing Company, Coors Brewing Company, Molson Canada 2005, Molson Inc., Molson Coors Canada Inc. and Coors Brewers Limited; the Lenders party thereto; Wachovia Bank, National Association, as Administrative Agent, Issuing Bank and Swingline Lender; and Bank of Montréal, as Canadian Administrative Agent, Issuing Bank and Swingline Lender (being filed to include all exhibits and schedules).
101.INS	XBRL Instance Document.*
101.SCH	XBRL Taxonomy Extension Schema Document.*
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.*
101.LAB	XBRL Taxonomy Extension Label Linkbase Document.*
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.*
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.*

\*

Attached as Exhibit 101 to this report are the following documents formatted in XBRL (Extensible Business Reporting Language): (i) the Condensed Consolidated Statements of Operations for the thirteen weeks ended March 26, 2011 and March 27, 2010, (ii) the Condensed Consolidated Balance Sheets at March 26, 2011 and December 25, 2010, and (iii) the Condensed Consolidated Statements of Cash Flows for the thirteen weeks ended March 26, 2011 and March 27, 2010. Users of this data are advised pursuant to Rule 406T of Regulation S-T that this interactive data file is deemed not filed or part of a registration statement or prospectus for purposes of sections 11 or 12 of the Securities Act of 1933, is deemed not filed for purposes of section 18 of the Securities and Exchange Act of 1934, and otherwise is not subject to liability under these sections.

