

FMC CORP
Form S-3ASR
October 29, 2008
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As filed with the Securities and Exchange Commission on October 29, 2008

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-3

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

FMC CORPORATION

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction)

94-0479804
(I.R.S. Employer)

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of incorporation)

Identification No.)

FMC Corporation

1735 Market Street

Philadelphia, PA 19103

(215) 299-6000

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

Andrea E. Utecht

Vice President, General Counsel and Secretary

FMC Corporation

1735 Market Street

Philadelphia, PA 19103

(215) 299-6000

**(Name, address, including zip code, and telephone number,
including area code, of agent for service)**

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

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, 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, 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, check the following box.

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.

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller Reporting Company

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered ⁽¹⁾⁽²⁾	Proposed Maximum Offering Price Per Unit ⁽¹⁾⁽²⁾	Proposed Maximum Aggregate Offering Price ⁽¹⁾⁽²⁾	Amount of Registration Fee ⁽³⁾
Common stock; preferred stock; debt securities; warrants; depository shares; stock purchase contracts and stock purchase units				

(1) Omitted pursuant to Form S-3 General Instruction II.E.

(2) An unspecified aggregate initial offering price or number of securities of each identified class is being registered as may from time to time be offered hereunder at indeterminate prices. Separate consideration may or may not be received for securities that are issuable on exercise, conversion or exchange of other securities or that are issued in units or represented by depository shares.

(3) In accordance with Rules 456(b) and 457(r) under the Securities Act of 1933, the registrant is deferring payment of all of the registration fee.

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The information in this prospectus is not complete and may be changed. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED October 29, 2008.

PRELIMINARY PROSPECTUS

FMC CORPORATION

Common Stock, Preferred Stock, Debt Securities

Warrants, Depositary Shares,

Stock Purchase Contracts and Stock Purchase Units

FMC Corporation, from time to time, may offer, issue and sell, together or separately:

shares of our common stock;

shares of our preferred stock;

debt securities, which may be senior debt securities or subordinated debt securities;

warrants to purchase our debt securities, shares of our common stock, shares of our preferred stock, depositary shares or securities of third parties or other rights;

depositary shares representing an interest in our preferred stock;

stock purchase contracts to purchase shares of our common stock; and

stock purchase units, each representing ownership of a stock purchase contract and debt securities, preferred securities or debt obligations of third-parties, including U.S. treasury securities or any combination of the foregoing, securing the holder's obligation to purchase our common stock or other securities under the stock purchase contracts.

Each time securities are offered under this prospectus, we will provide a prospectus supplement and attach it to this prospectus. The prospectus supplement will contain more specific information about the terms of the offering and the offered securities. A prospectus supplement also may modify or supersede information contained in this prospectus. This prospectus may not be used to offer or sell securities unless accompanied by a prospectus supplement describing the method and terms of the applicable offering.

We may offer and sell these securities to or through one or more underwriters, dealers and agents, or directly to purchasers, on a continuous or delayed basis. The prospectus supplement for each offering of securities will describe in detail the plan of distribution for that offering.

Our common stock is listed on the New York Stock Exchange and the Chicago Stock Exchange under the symbol FMC.

Investing in these Securities involves certain risks. See Risk Factors on page 1 of this Prospectus.

You should read this prospectus and the applicable supplement, together with the documents incorporated by reference, carefully before you invest in our securities.

Neither the Securities and Exchange Commission nor any state securities regulator 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 October 29, 2008.

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You should rely only on the information contained in this prospectus and the accompanying prospectus supplement, including the information incorporated by reference as described under Where You Can Find More Information, and any free writing prospectus that we prepare and distribute. We have not authorized anyone to provide you with different information. If you receive any other information, you should not rely on it. You should not assume that the information in this prospectus or any prospectus supplement is truthful or complete at any date other than the date appearing on the cover page of those documents. We are not making an offer of these securities in any jurisdiction where the offer is not permitted.

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RISK FACTORS

You should carefully consider the specific risks set forth under the caption "Risk Factors" in our periodic reports referred to in "Documents Incorporated by Reference" below and, if included in a prospectus supplement, under the caption "Risk Factors" in the prospectus supplement.

ABOUT THIS PROSPECTUS

All references in this prospectus to "FMC Corporation," "we," "our," and "us" refer to FMC Corporation and its consolidated subsidiaries unless the context otherwise requires.

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, which we refer to as the "SEC," using a "shelf" registration process. Under this shelf registration process, we may sell the securities described in this prospectus in one or more offerings. This prospectus only provides you with a general description of the securities that we may offer. Each time we sell securities under this shelf registration, we will provide a prospectus supplement that will contain specific information about the terms of the offering. The prospectus supplement may also modify or supersede the information contained in this prospectus. You should read both this prospectus and the applicable prospectus supplement together with the additional information referred to below under "Where You Can Find More Information."

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC under the Securities Exchange Act of 1934, as amended, and the rules promulgated thereunder, or the Exchange Act. You may read and copy any document that we file 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 operation of the public reference room. Our SEC filings also are available to you at the SEC's web site at www.sec.gov.

We have filed with the SEC a registration statement on Form S-3 relating to the securities offered by this prospectus. This prospectus is a part of that registration statement, which includes additional information. Whenever a reference is made in this prospectus to a contract or other document of ours, please be aware that the reference is only a summary and that you should refer to the exhibits that are a part of the registration statement for a copy of the contract or other document. You may review a copy of the registration statement at the SEC's public reference room in Washington, D.C., as well as through the SEC's web site.

DOCUMENTS INCORPORATED BY REFERENCE

The SEC allows us to "incorporate by reference" into this prospectus the information we file with the SEC. This enables us to disclose important information to you by referring you to these documents. The information incorporated by reference is deemed to be part of this prospectus, and the information we file with the SEC after the date of this prospectus will automatically update, modify and, where applicable, supersede any information included in this prospectus or incorporated by reference in this prospectus. We incorporate by reference into this prospectus the following documents filed with the SEC (other than, in each case, documents or information deemed to be filed and not furnished in accordance with SEC rules). The SEC file number for these documents is 1-2376.

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Annual Report on Form 10-K for the fiscal year ended December 31, 2007 (as amended on March 18, 2008);

Quarterly Reports on Form 10-Q for the fiscal quarters ended March 31, 2008 and June 30, 2008;

Current Reports on Form 8-K filed March 24, 2008, June 27, 2008 (as amended on September 23, 2008 and October 21, 2008), and October 27, 2008; and

The description of our common stock set forth in our Registration Statement on Form 8-A, filed with the SEC on May 12, 1986 pursuant to Section 12 of the Exchange Act and all amendments thereto and reports filed for the purposes of updating such description.

We also incorporate by reference into this prospectus all documents filed by us pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 between the date of this prospectus and the termination of the offering of securities under this prospectus. To the extent that any information contained in any current report on Form 8-K, or any exhibit to the report, was furnished to, rather than filed with the SEC, the information or exhibit is specifically not incorporated by reference in this prospectus. Any statement made in a document incorporated by reference will be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained in this prospectus or in any subsequently filed document that also is or is deemed to be incorporated by reference in this prospectus modifies or supersedes such statement. Any statement made in this prospectus will be deemed to be modified or superseded to the extent that a settlement contained in any subsequently filed document that also is or is deemed to be incorporated by reference in this prospectus modifies or supersedes such statement. Any statement so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

To obtain a copy of any or all of the documents incorporated by reference in this prospectus, you may write or telephone us at the following address and telephone number:

FMC Corporation
1735 Market Street
Philadelphia, PA 19103
Attention: General Counsel
(215) 299-6000

Exhibits to the documents will not be sent, however, unless those exhibits have specifically been incorporated by reference into such document.

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SPECIAL NOTE ON FORWARD-LOOKING INFORMATION

This prospectus, any prospectus supplement and documents incorporated by reference in this prospectus may contain statements that are forward-looking and provide information other than historical information. These statements involve known and unknown risks, uncertainties and other factors that may cause actual results to be materially different from any results, levels of activity, performance or achievements expressed or implied by any forward-looking statement. These factors include, among other things, the risk factors listed in Item 1A, Risk Factors, of our most recent Annual Report on Form 10-K.

In some cases, we have identified forward-looking statements by such words or phrases as will likely result, is confident that, expect, expects, should, could, may, will continue to, believe, believes, anticipates, predicts, forecasts, estimates, projects, potential, in expressions identifying forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, including the negative of those words and phrases. Such forward-looking statements are based on our current views and assumptions regarding future events, future business conditions and the outlook for the company based on currently available information. These forward-looking statements are subject to certain risks and uncertainties that could cause actual results to differ materially from those expressed in, or implied by, these statements. We wish to caution readers not to place undue reliance on any such forward-looking statements, which speak only as of the date made.

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FMC Corporation is a diversified, global chemical company providing innovative solutions, applications and market-leading products to a wide variety of markets. We operate in three distinct business segments: Agricultural Products, Specialty Chemicals and Industrial Chemicals. Our Agricultural Products segment primarily focuses on insecticides, which are used in agriculture to enhance crop yield and quality by controlling a broad spectrum of pests and in pest control for non-agricultural applications, and on herbicides, which are used to reduce the need for manual or mechanical weeding by inhibiting or preventing weed growth. Specialty Chemicals consists of our BioPolymer and lithium businesses and focuses on food ingredients that are used to enhance texture, structure and physical stability, pharmaceutical additives for binding, encapsulation and disintegrant applications, ultrapure biopolymers for medical devices and lithium specialties for pharmaceutical synthesis, specialty polymers and energy storage. Our Industrial Chemicals segment manufactures a wide range of inorganic materials, including soda ash, hydrogen peroxide, specialty peroxygens and phosphorus chemicals.

We were incorporated in 1928 under Delaware law and have our principal executive offices at 1735 Market Street, Philadelphia, Pennsylvania 19103. Our telephone number is (215) 299-6000.

USE OF PROCEEDS

Unless we inform you otherwise in a prospectus supplement or free writing prospectus, the net proceeds from the sale of the securities will be used for general corporate purposes, including working capital, acquisitions, repurchases of common stock, capital expenditures and the repayment of indebtedness.

**RATIO OF EARNINGS TO FIXED CHARGES AND RATIO OF EARNINGS TO FIXED
CHARGES AND PREFERRED STOCK DIVIDENDS**

	For the Six Month Periods Ended		For the Years Ended December 31,				
	June 30, 2008	2007	2007	2006	2005	2004	2003
Ratio of earnings to fixed charges	14.3	4.5	5.1	5.3	2.5	2.4	2.0
Ratio of earnings to fixed charges and preferred stock dividends ⁽¹⁾	14.3	4.5	5.1	5.3	2.5	2.4	2.0

(1) As of the dates for which the information is presented in the above table, no preferred stock was issued and outstanding. The Ratio of Earnings to Fixed Charges and Ratio of Earnings to Fixed Charges and Preferred Stock Dividends should be read in conjunction with our Annual Report on Form 10-K for the fiscal year ended December 31, 2007, which is incorporated by reference into this prospectus.

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DESCRIPTION OF SECURITIES WE MAY OFFER

This prospectus contains summary descriptions of the common stock, preferred stock, debt securities, warrants, depositary shares, stock purchase contracts and stock purchase units that we may offer and sell from time to time. These summary descriptions are not meant to be complete descriptions of each security. However, at the time of an offering and sale, this prospectus together with the accompanying prospectus supplement will contain the material terms of the securities being offered, including the specific types, amounts, prices and detailed terms of any of these securities.

DESCRIPTION OF CAPITAL STOCK

The following description of our common stock and preferred stock will apply generally to any future common stock or preferred stock that we may offer, but is not complete. We will describe the particular terms of any class or series of these securities in more detail in the applicable prospectus supplement. For more information regarding the common stock and preferred stock that may be offered by this prospectus, please refer to our restated certificate of incorporation, as amended, our restated by-laws and our stockholder rights plan, which are incorporated by reference as exhibits to the registration statement of which this prospectus is a part.

The summary below and that contained in any prospectus supplement are not complete and are qualified in their entirety by reference to our restated certificate of incorporation, as amended, restated by-laws and stockholder rights plan. The terms of these securities also may be affected by the General Corporation Law of the State of Delaware, or the DGCL.

Description of Common Stock

Our authorized common stock consists of 130 million shares of common stock, \$0.10 par value. As of September 30, 2008, there were 74,020,961 shares of common stock issued and outstanding. In addition, up to approximately 7 million shares have been reserved as of September 30, 2008 for issuance upon the exercise of options and awards under our incentive compensation plans. The shares of common stock are listed on the New York Stock Exchange and the Chicago Stock Exchange under the symbol FMC. National City Bank is the transfer agent and registrar of the shares of common stock.

The common stock is not redeemable, does not have any conversion rights and is not subject to call. Holders of shares of common stock have no preemptive rights to maintain their percentage of ownership in future offerings or sales of our stock. Holders of shares of common stock have one vote per share in all elections of directors and on all other matters submitted to a vote of our stockholders. The holders of common stock are entitled to receive dividends, if any, as and when declared from time to time by our Board of Directors out of funds legally available for distribution. Upon our liquidation, dissolution or winding up of our affairs, the holders of common stock will be entitled to participate equally and ratably, in proportion to the number of shares held, in our net assets available for distribution to holders of common stock. The shares of common stock offered hereby, upon issuance against full payment of the purchase price therefor, will be fully paid and nonassessable.

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Certain Certificate of Incorporation Provisions

General

We have adopted a number of provisions in our restated certificate of incorporation that might discourage certain types of transactions that involve an actual or threatened change in control of FMC Corporation. The provisions may make it more difficult and time-consuming to change majority control of our Board of Directors and thus reduce our vulnerability to an unsolicited offer, particularly an offer that does not contemplate the acquisition of all of our outstanding shares.

These provisions are intended to encourage persons seeking to acquire control of FMC Corporation to initiate such an acquisition through arm's-length negotiations with our management and Board of Directors. Additionally, such provisions provide management with the time and information necessary to evaluate a takeover proposal and to study alternative proposals. Nonetheless, the provisions could have the effect of discouraging a third party from making a tender offer or otherwise attempting to obtain control of FMC Corporation, even though such an attempt might be beneficial to us and our stockholders.

Business Combination

Our restated certificate of incorporation provides that significant asset sales, dispositions of stock, liquidations, mergers and certain other business combinations involving us and persons beneficially owning 10% or more of the voting power of our outstanding shares of common stock must be approved by the holders of at least 80% of the voting power of our outstanding voting stock. The restated certificate of incorporation requires the affirmative vote of the holders of 80% or more of the outstanding voting stock to amend, alter or repeal, or to adopt any provisions inconsistent with, such provisions.

Stockholders Meetings

Our restated certificate of incorporation provides that special meetings of the stockholders may only be called pursuant to a resolution approved by a majority of the Board of Directors. This limitation prevents a stockholder or group of stockholders from forcing us to conduct a stockholders' meeting at any time not sanctioned by the Board of Directors, regardless of the number of shares of common stock held by such stockholder or group of stockholders.

No Action by Stockholder Consent

Our restated certificate of incorporation prohibits action that is required or permitted to be taken at any annual or special meeting of our stockholders from being taken by the written consent of stockholders without a meeting. This provision may be altered, amended or repealed only if the holders of 80% or more of our outstanding voting stock vote in favor of such action.

Description of Preferred Stock

Our authorized preferred stock consists of 5,000,000 shares of preferred stock, in one or more series and with rights, preferences, privileges and restrictions, including dividend rights, voting rights, conversion rights, terms of redemption and liquidation preferences, that may be fixed or designated by our Board of Directors pursuant to a certificate of designation without any further vote or action by our stockholders.

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As of the date of this prospectus, no shares of preferred stock are issued or outstanding.

The issuance of preferred stock may have the effect of delaying, deferring or preventing a change in control of FMC Corporation. Preferred stock, upon issuance against full payment of the purchase price therefor, will be fully paid and nonassessable. The specific terms of a particular series of preferred stock will be described in the prospectus supplement relating to that series. The description of preferred stock set forth below and the description of the terms of a particular series of preferred stock set forth in the related prospectus supplement do not purport to be complete and are qualified in their entirety by reference to the certificate of designation relating to that series. The related prospectus supplement will contain a description of certain United States federal income tax consequences relating to the purchase and ownership of the series of preferred stock described in such prospectus supplement.

The rights, preferences, privileges and restrictions of the preferred stock of each series will be fixed by the certificate of designation relating to such series. A prospectus supplement, relating to each series, will specify the terms of the preferred stock as follows:

The maximum number of shares to constitute the series and the distinctive designation thereof;

The annual dividend rate, if any, on shares of the series, whether such rate is fixed or variable or both, the date or dates from which dividends will begin to accrue or accumulate and whether dividends will be cumulative;

The price at and the terms and conditions on which the shares of the series may be redeemed, including the time during which shares of the series may be redeemed and any accumulated dividends thereon that the holders of shares of the series shall be entitled to receive upon the redemption thereof;

The liquidation preference, if any, and any accumulated dividends thereon, that the holders of shares of the series shall be entitled to receive upon the liquidation, dissolution or winding up of the affairs of FMC Corporation;

Whether or not the shares of the series will be subject to operation of a retirement or sinking fund, and, if so, the extent and manner in which any such fund shall be applied to the purchase or redemption of the shares of the series for retirement or for other corporate purposes and the terms and provisions relating to the operation of such fund;

The terms and conditions, if any, on which the shares of the series shall be convertible into, or exchangeable for, shares of any other class or classes of our capital stock of or a third party or of any other series of the same class, including the price or prices or the rate or rates of conversion or exchange and the method, if any, of adjusting the same and whether such conversion is mandatory or optional;

The stated value of the shares of such series;

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The voting rights, if any, of the shares of the series; and

Any or all other preferences and relative, participating, optional or other special rights or qualifications, limitations or restrictions thereof.

In the event of any voluntary liquidation, dissolution or winding up of the affairs of FMC Corporation, the holders of any series of any class of preferred stock shall be entitled to receive in full out of our assets, including its capital, before any amount shall be paid or distributed among the holders of the common stock or any other shares ranking junior to such series, the amounts fixed by the Board of Directors with respect to such series and set forth in the applicable prospectus supplement plus an amount equal to all dividends accrued and unpaid thereon to the date of payment of the amount due pursuant to such liquidation, dissolution or winding up of the affairs. After payment to the holders of the preferred stock of the full preferential amounts to which they are entitled, the holders of preferred stock, as such, shall have no right or claim to any of our remaining assets.

If liquidating distributions shall have been made in full to all holders of preferred stock, our remaining assets shall be distributed among the holders of any other classes or series of capital stock ranking junior to the preferred stock upon liquidation, dissolution or winding up, according to their respective rights and preferences and in each case according to their respective numbers of shares. Our merger or consolidation into or with any other corporation, or the sale, lease or conveyance of all or substantially all of our assets, shall not constitute a dissolution, liquidation or winding up of FMC Corporation.

Section 203 of the Delaware General Corporation Law

We are a Delaware corporation. Section 203 of the DGCL prohibits a Delaware corporation from engaging in a business combination with an interested stockholder for a period of three years after the date of the transaction in which the person became an interested stockholder. The term business combination is broadly defined to include mergers, consolidations, sales and other dispositions of assets having an aggregate market value equal to 10% or more of the consolidated assets of the corporation, and other specified transactions resulting in financial benefits to the interest stockholder. Under Section 203, an interested stockholder generally is defined as a person who, together with affiliates and associates, owns (or within the three prior years did own) 15% or more of the corporation's outstanding voting stock.

This prohibition is effective unless:

the business combination or the transaction that resulted in the interested stockholder becoming an interested stockholder is approved by the corporation's board of directors prior to the time the interested stockholder becomes an interested stockholder;

upon consummation of the transaction that resulted in the interested stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation, other than stock held by directors who are also officers or by specified employee stock plans; or

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at or after the time the stockholder becomes an interested stockholder, the business combination is approved by a majority of the board of directors and, at an annual or special meeting, by the affirmative vote of two-thirds of the outstanding voting stock that is not owned by the interested stockholder.

In general, the prohibitions do not apply to business combinations with persons who were interested stockholders before we became subject to Section 203.

Limitation on Liability and Indemnification Matters

Our restated certificate of incorporation provides that none of our directors will be liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director, except for liability

for any breach of the director's duty of loyalty to us or our stockholders,

for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law,

under Section 174 of the DGCL (relating to unlawful payments of dividends or stock repurchases), or

for any transaction from which the director derived an improper personal benefit.

In addition, our restated by-laws provide for indemnification, to the fullest extent permitted by the DGCL, of every officer and director and certain other persons made or threatened to be made a party to any action, suit or proceeding by reason of the fact that the person is, or was a director, officer or agent of ours or is or was serving at our request as a director, officer, employee or agent for another enterprise, against all expense, liability and loss reasonably incurred or suffered by such person in connection with the action, suit or proceeding and specifies procedures to be followed by us and any person requesting indemnification in connection with any claim.

Transfer Agent and Registrar

National City Bank serves as the registrar and transfer agent for the common stock.

Stock Exchange Listing

Our common stock is listed on the New York Stock Exchange and the Chicago Stock Exchange under the trading symbol FMC.

DESCRIPTION OF DEBT SECURITIES

In this section, references to holders mean those who own debt securities registered in their own names on the books that we or the trustee maintains for this purpose, and not those who own beneficial interests in debt securities registered in street name or in debt securities issued in book-entry form through one or more depositories. Owners of beneficial interests in the debt securities should read the section below entitled Denominations, Registrations and Transfer.

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General

The debt securities offered by this prospectus will be either senior or subordinated debt. We will issue senior debt under a senior debt indenture, and we will issue subordinated debt under a subordinated debt indenture. We sometimes refer to the senior debt indenture and the subordinated debt indenture individually as an indenture and collectively as the indentures. The trustee under each of the senior debt indenture and the subordinated debt indenture will be U.S. Bank National Association. We have filed forms of the indentures with the SEC as exhibits to the registration statement of which this prospectus forms a part. You can obtain copies of the indentures by following the directions outlined in [Where You Can Find More Information](#), and by contacting the trustee.

The following summary briefly describes the material provisions of the indentures and the debt securities, other than pricing and related terms, which will be disclosed for a particular issuance in the applicable prospectus supplement. The summary is not complete. You should read the more detailed provisions of the applicable indenture, including the defined terms, for provisions that may be important to you. The summary below and that contained in any prospectus supplement are qualified in their entirety by reference to the applicable indenture. You should also read the particular terms of a series of debt securities, which will be described in more detail in an applicable prospectus supplement. Throughout the summary we have included parenthetical references to the indenture sections, which, except for subordination provisions addressed only in the subordinated debt, are the same in each document, to help you locate the provisions being discussed.

The indentures provide that our unsecured senior or subordinated debt securities may be issued in one or more series, with different terms, in each case as we authorize from time to time. We also have the right, from time to time, to issue debt securities of any series previously issued. (Section 3.01)

Information in the Prospectus Supplement

The prospectus supplement for any offered series of debt securities will describe the following terms, as applicable:

the title or designation;

whether the debt is senior or subordinated;

the aggregate principal amount offered and authorized denominations;

the initial public offering price;

the maturity date or dates;

any sinking fund or other provision for payment of the debt securities prior to their stated maturity;

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whether the debt securities are fixed rate debt securities or floating rate debt securities or original issue discount debt securities;

if the debt securities are fixed rate debt securities, the yearly rate at which the debt security will bear interest, if any;

if the debt securities are floating rate debt securities, the method of calculating the interest rate;

if the debt securities are original issue discount debt securities, their yield to maturity;

the date or dates from which any interest will accrue, or how such date or dates will be determined, and the interest payment dates and any related record dates;

if other than in U.S. Dollars, the currency or currency unit in which payment will be made;

any provisions for the payment of additional amounts for taxes;

the denominations in which the currency or currency unit of the securities will be issuable if other than denominations of \$1,000 and integral multiples thereof;

whether the debt securities will be convertible into or exchangeable for other securities and, if so, the terms and conditions upon which such debt securities will be convertible;

the terms and conditions on which the debt securities may be redeemed at our option;

any obligation we may have to redeem, purchase or repay the debt securities at the option of a holder upon the happening of any event and the terms and conditions of redemption, purchase or repayment;

the names and duties of any co-indenture trustees, depositaries, auction agents, authenticating agents, calculation agents, paying agents, transfer agents or registrars for the debt securities;

any material provisions of the applicable indenture described in this prospectus that do not apply to the debt securities;

the ranking of the specific series of debt securities relative to other outstanding indebtedness, including subsidiaries' debt;

if the debt securities are subordinated, the aggregate amount of outstanding indebtedness, as of a recent date, that is senior to the subordinated securities, and any limitation on the issuance of additional senior debt;

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the place where we will pay principal and interest;

additional provisions, if any, relating to the defeasance of the debt securities;

any United States federal income tax consequences relating to the offered securities, if material;

the dates on which premiums, if any, will be paid;

our right, if any, to defer payment of interest and the maximum length of this deferral period;

any listing of the debt securities on a securities exchange; and

any other specific terms of the debt securities.

We will issue the debt securities only in registered form. (Section 3.02) As currently anticipated, debt securities of a series will trade in book-entry form, and global securities will be issued in physical (paper) form.

We will issue senior debt securities under the senior debt indenture. These senior debt securities will rank on an equal basis with all our other unsecured debt and unsubordinated debt.

We will issue subordinated debt securities under the subordinated debt indenture. Subordinated debt will rank subordinate and junior in right of payment, to the extent and in the manner set forth in the subordinated debt indenture, to all our senior indebtedness (both secured and unsecured). (Section 15.01)

In general, the holders of all senior debt securities are first entitled to receive payment of the full amount unpaid on senior indebtedness before the holders of any of the subordinated debt securities are entitled to receive a payment on account of the principal or interest on the indebtedness evidenced by the subordinated debt securities in certain events.

If we default in the payment of any principal of, or premium, if any, or interest or other monetary amounts on any senior indebtedness when it becomes due and payable after any applicable grace period, then, unless and until the default is cured or waived or ceases to exist, we cannot make a payment on account of or redeem or otherwise acquire the subordinated debt securities. (Section 15.04)

If there is any insolvency, bankruptcy, liquidation or other similar proceeding relating to us or our property, then all senior indebtedness must be paid in full before any payment may be made to any holders of subordinated debt securities. (Section 15.02)

Furthermore, if we default in the payment of the principal of and accrued interest on any subordinated debt securities that are declared due and payable upon an event of default under the subordinated debt indenture, holders of all our senior indebtedness will first be entitled to receive payment in full in cash before holders of such subordinated debt can receive any payments. (Section 15.03)

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Senior indebtedness means:

the principal, interest and any other amounts owing in respect of our indebtedness for borrowed money or indebtedness of others that we guarantee and indebtedness evidenced by bonds, notes, debentures or other similar instruments or letters of credit issued by us, including any senior debt securities issued under any senior debt security or letters of credit;

all capitalized lease obligations;

all hedging obligations;

all obligations representing the deferred purchase price of property; and

all deferrals, renewals, extensions and refundings of obligations of the type referred to above;
but senior indebtedness does not include:

subordinated debt securities; and

any indebtedness that by its terms is subordinated to, or ranks on an equal basis with, our subordinated debt securities.

Covenants

Merger and Sale of Assets

We may not, in a single transaction or a series of related transactions:

consolidate or merge with or into any other person or permit any other person to consolidate or merge with or into us; or

transfer, sell, lease or otherwise dispose of all or substantially all of our assets,
unless, in either such case:

in a transaction in which we do not survive or in which we sell, lease or otherwise dispose of all or substantially all of our assets, the successor entity to us is organized under the laws of the United States, or any state thereof or the District of Columbia, and expressly assumes, by supplemental indentures, all of our obligations under the indentures;

immediately after giving effect to the transaction, no default on the debt securities exists; and

an officer's certificate and an opinion of counsel concerning certain matters are delivered to the trustee. (Section 8.01)

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Other Covenants

In addition, any offered series of debt securities may have additional covenants which will be described in the prospectus supplement.

Modification of the Indentures

Under the indentures, we and the relevant trustee may amend the indentures, without the consent of any holder of the debt securities to:

evidence the succession of another obligor to the company and the assumption of the covenants in the indentures and in the debt securities by such successor;

add to our covenants for the benefit of the holders of all or any series of debt securities (and if such covenants are to be for the benefit of less than all series of debt securities, stating that such covenants are expressly being included for the benefit of such series) or to surrender any rights or power conferred upon us;

add any additional events of default;

add or change any provision of the indentures to permit the issuance of the debt securities in bearer form, registrable or not registrable as to principal, with or without interest coupons;

add to, change or eliminate any of the provisions of the indentures in respect of one or more series of debt securities, provided that any such addition, change or elimination (i) will neither apply to any debt security created prior to the execution of the supplemental indenture nor adversely affect the rights of the holders thereof in any material respect or (ii) will become effective only when no such debt securities are outstanding;

secure the debt securities;

establish the form or terms of debt securities of any series as permitted in the indentures;

establish provisions with respect to conversion rights, if any;

reflect our consolidation or merger with or into any other person or permit the consolidation or merger of any other person with or into us, or the transfer, sale, lease or other disposition of all or substantially all of our assets, in conformity with the limitations set forth in the indentures;

permit the issuance of uncertificated debt securities in addition to, or in place of, certificated debt securities;

appoint a successor trustee under either indenture;

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cure ambiguities, defects or inconsistencies, provided that the amendment may not adversely affect the interests of holders of debt securities in any material respect;

conform any provisions of the indentures to the Description of Debt Securities contained in this prospectus or any similar provision in an applicable prospectus supplement; or

maintain the qualification of the indentures under the Trust Indenture Act. (Section 9.01)

We and the trustee may, with the consent of the holders of at least a majority in aggregate principal amount of the debt securities of a series or such other percentage as may be specified in the applicable prospectus supplement, modify the applicable indenture or the rights of the holders of the securities of such series. However, no such modification may, without the consent of each holder of an affected debt security:

change the fixed maturity of any such debt securities or the date on which any payment of interest on the debt securities is due and payable;

reduce the principal amount or interest rate on any debt security;

reduce the premium payable upon any redemption of the debt securities;