

Kennedy-Wilson Holdings, Inc.  
Form 10-K  
March 17, 2010  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**Form 10-K**

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the fiscal year ended December 31, 2009

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from            to

Commission file number: 001-33824

**Kennedy-Wilson Holdings, Inc.**

(Exact Name of Registrant as Specified in Its Charter)

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<p><b>Delaware</b> (State or Other Jurisdiction of  Incorporation or Organization)  <b>9701 Wilshire Blvd.,</b>  <b>Suite 700, Beverly Hills, CA</b> (Address of Principal Executive Offices)</p>	<p><b>20-4743916</b> (I.R.S. Employer  Identification No.)  <b>90212</b> (Zip Code)</p>
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**(310) 887-6400**

(Registrant's telephone number, including area code)

**Securities registered pursuant to Section 12(b) of the Act:**

Title of Each Class	Name of Each Exchange on which Registered
Common Stock, \$.0001 par value	NYSE AMEX
Warrants	NYSE AMEX

**Securities registered pursuant to Section 12(g) of the Act: None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

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 definition 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  (Do not check if a smaller reporting company) Smaller reporting company

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

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Based on the last sale at the close of business on June 30, 2009, the aggregate market value of the registrant's common stock held by non-affiliates of the registrant was approximately \$245,389,575.26.

The number of shares of common stock outstanding as of March 12, 2010 was 41,177,658.

### **DOCUMENTS INCORPORATED BY REFERENCE**

Part III of this report incorporates certain information by reference from the registrant's proxy statement for the annual meeting of stockholders to be held on or around June 24, 2010, which proxy statement will be filed no later than 120 days after the close of the registrant's fiscal year ended December 31, 2009.

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**FORWARD-LOOKING STATEMENTS**

Statements made by us in this report and in other reports and statements released by us that are not historical facts constitute forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the Securities Act ) and Section 21 of the Securities Exchange Act of 1934, as amended (the Exchange Act ). These forward-looking statements are necessarily estimates reflecting the judgment of our senior management based on our current estimates, expectations, forecasts and projections and include comments that express our current opinions about trends and factors that may impact future operating results. Disclosures that use words such as believe, anticipate, estimate, intend, could, plan, expect, project or the negative of these, as well as similar expressions, are intended to identify forward-looking statements. These statements are not guarantees of future performance, rely on a number of assumptions concerning future events, many of which are outside of our control, and involve known and unknown risks and uncertainties that could cause our actual results, performance or achievement, or industry results, to differ materially from any future results, performance or achievements, expressed or implied by such forward-looking statements. We discuss such risks, uncertainties and other factors throughout this report and specifically under the caption Risk Factors in Part I, Item 1A. below. Any such forward-looking statements, whether made in this report or elsewhere, should be considered in the context of the various disclosures made by us about our businesses including, without limitation, the risk factors discussed below. Except as required under the federal securities laws and the rules and regulations of the U.S. Securities and Exchange Commission (the SEC ), we do not have any intention or obligation to update publicly any forward-looking statements, whether as a result of new information, future events, changes in assumptions, or otherwise.

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**PART I**

**Item 1. Business**  
**Company Overview**

Founded in 1977, we are a diversified, international real estate company that provides investment and real estate services. We have grown from an auction business in one office into a vertically-integrated operating company with over 300 professionals in 22 offices throughout the U.S. and Japan. We are an industry leader, currently owning real estate (through our closed-end funds, joint ventures and wholly and majority owned entities) and managing over 40 million square feet of residential, multifamily and commercial real estate, including 10,000 apartment units, throughout the U.S. and Japan. Our operations are defined by two core business units: KW Investments and KW Services. We do not intend to elect and qualify to be taxed as a real estate investment trust for U.S. federal income tax purposes.

***Recent Events***

In June 2009, a joint venture of which Kennedy-Wilson Residential Condominium Group has a 50.5% ownership interest, acquired 149 unsold units in The Mercury, a Los Angeles condominium property. As of February 28, 2010, the joint venture sold and closed escrow on all 149 units generating a net gain on sale after expenses of approximately \$18.7 million.

During 2009, a joint venture in which our Japanese Multi-family Group has a 35% interest, extinguished \$131 million of debt for a discounted settlement, resulting in equity in joint venture income to us of \$9.9 million.

In October 2009, we entered into an agreement in principle with Deutsche Bank to form a partnership with a total non-binding commitment of up to \$500 million (up to approximately \$450 million from Deutsche Bank and up to approximately \$50 million from us), to finance and acquire distressed real estate debt and to source and finance commercial and multifamily whole loan origination opportunities on the west coast. The partnership made its first investment in February 2010 with the acquisition of a loan portfolio totaling approximately \$342 million in unpaid principal balance.

In November 2009, we entered into a separate account agreement with Siguler Guff, a multi-strategy private equity firm. The separate account's total equity commitment is up to approximately \$108 million (including up to approximately \$8.1 million from us) and was formed to pursue acquisition and repositioning opportunities of distressed assets with a focus on residential condominium projects. The first acquisition in the platform was completed in December 2009 through a joint venture purchase of a loan secured by a 32 unit condominium project and adjacent developable land in Costa Mesa, CA with an unpaid principal balance of approximately \$19.5 million.

***KW Investments***

We formalized our investing activities in 1999 by creating an investment arm, KW Investments. Through this investment arm, we co-invest through separate accounts and closed-end funds in the acquisition of real estate including office, multi-family, loans, retail, hotels, residential condominiums and land for development. We aim to create value with our hands-on approach and seek to harvest value through an exit strategy which is established at the time of acquisition. KW Investments consists of more than 20 investment professionals whose time is dedicated to sourcing, analyzing, executing and managing fund and joint venture investments. In June 2009, we formed KW Capital Markets with the primary function of raising private and institutional capital, assisting with investor relations, and managing other strategic initiatives.

We are a strategic investor and a manager of portfolio investments both in wholly-owned projects and in partnership with institutional investors in the U.S. and Japan. Since 1999, we have invested over \$2.0 billion of equity across office, multifamily, retail, hotels, and residential properties through our joint ventures and closed-end funds.

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Our investment activity focuses on the west coast of the United States, Tokyo, Japan, Texas and Hawaii. In our investing activity, we typically act as the general partner whereby we invest on average between 5-15% of the equity in a given venture. The target investment size generally ranges from \$15-\$100 million. In our various investment vehicles, there are typically restrictions on making an investment in a single asset that represents more than 20% of the equity in a given platform without the consent of its limited partner(s).

In general, we invest in value-added properties for which we act as general partner and operator of the property. As general partner and operator of real estate properties, we are responsible for the following:

acquisitions, including sourcing deals, due diligence and escrow closing;

leasing, including setting rental rates and negotiating and executing leases;

renovation, including supervising tenant improvements and/or unit upgrades, construction management and capital improvements to common areas;

business plan implementation, including refinancing of properties and execution of marketing plans; and

disposition of properties, including sales timing decisions, brokerage services and escrow closing.

Our investments are generally held in fee simple interest. On average, we utilize approximately 65% loan-to-cost on the properties that we acquire while generally obtaining financing for periods of between 3 and 10 years. Our loans are split between interest only and amortizing in nature. Our properties are generally fully-developed and typically have a renovation plan that include some common area and tenant area work which generally represents less than 10% of the purchase price of the asset.

We have historically raised equity for our investments in three ways: through joint-ventures, closed-end funds and investment specific.

Our co-investment in joint ventures have typically been between 5% and 15% of the total equity investment. Joint venture and fund investments include the following real estate types:

- (i) U.S. Office Since 1999, we have invested approximately \$550 million of equity in the acquisition of 33 office properties in the U.S., totaling more than 6.6 million square feet.
- (ii) U.S. Multifamily Since 1999, we have invested approximately \$525 million of equity in the acquisition of 56 multifamily properties in the U.S., totaling approximately 14,600 units and 11.8 million square feet.
- (iii) Japan Our investment professionals have been active in Japan for over a decade and we currently have a strong team of origination, finance and asset management professionals on the ground. Our Japanese activities started in 1995 where we invested approximately \$590 million of equity through a former wholly-owned subsidiary that was taken public in February 2002 and has been listed on the Tokyo Stock Exchange since 2003. Our company and our management team owned a majority position in said subsidiary through September 2002 and we were the largest stockholders through May 2003. That company, now the publicly-traded Kenedix, is no longer owned by or affiliated with us. We sold all of our interest in Kenedix at a substantial gain. In 2005, we re-entered the Japanese market when we formed KW Investment Co., Ltd. to acquire multifamily properties in several key markets in Japan with Wachovia Development Corporation as our partner. Since 2005, KW Investment Co. has invested more than \$230 million of equity in the acquisition of 2,410 multifamily units,

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totaling approximately one million square feet. Including our prior investment experience through what is now Kenedix, we have invested a total of approximately \$1.7 billion in the acquisition of 81 investments, primarily in multifamily and office properties.

- (iv) U.S. Other Real Estate Since 1999, we have invested approximately \$300 million of equity in the acquisition of loans, retail, industrial, residential and other real estate-related investments in the U.S.



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In addition to our joint ventures, we manage several closed-end funds. Below are the descriptions of our closed-end funds that have completed their fund raising:

- (i) KWI Property Fund I, L.P. closed with \$62.5 million of capital commitments in August 2000. This fund has reached the end of its investment period and is now focused on harvesting the value created from the successful execution of each investment's business plan.
- (ii) KWI Property Fund II, L.P. closed with \$106 million of capital commitments in October 2005. This fund is currently fully invested and is now focused on harvesting the value created from the successful execution of each investment's business plan.
- (iii) We manage two Double Bottom-Line funds that seek to provide market rate returns for investors and positive social, economic and environmental benefits to the communities in which they invest. The Double Bottom-Line Funds are typically geographically focused on a specific target market.

The following table sets forth certain general information with respect to two of our materially important property investments: Woodstone Apartment Homes, an apartment complex located in Lompoc, California, and The Cove and The Shores, a condominium complex located in Richmond, California:

<b>Property Location</b>	<b>Woodstone Apartment Homes</b>	<b>The Cove and The Shores</b>
<b>Location</b>	Lompoc, CA	Richmond, CA
<b>Type</b>	Multifamily	Finished Condos/Multifamily
<b>Units</b>	204	484
<b>Square Feet</b>	146,580	396,978
<b>Acquisition Date</b>	March 2005	June 2008
<b>Business Plan</b>	Value-add	Operate unsold condominiums as apartments until market improves to allow for profitable sales
<b>Ownership</b>	Fee Simple	Fee Simple
<b>Ownership Percentage</b>	95.6%	19.78%
<b>Loan Balance</b>	\$20,740,000	\$65,249,799
<b>Loan Type</b>	Interest only	Interest only
<b>Fixed Interest Rate</b>	6.16% on initial advance of \$18,600,000	N/A
<b>Floating Interest Rate</b>	1-month LIBOR plus 1.25% on subsequent advances	1-month LIBOR plus 1.45%; Swaps peg LIBOR at 3.33% on \$9,300,000 and 2.98% on \$9,300,000 to 6/27/2011. Swaps peg LIBOR at 3.34% on \$20,700,000 and 2.98% on \$20,700,000 to 6/27/2011.

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	<b>Woodstone Apartment Homes</b>	<b>The Cove and The Shores</b>
<b>Property</b>		
<b>Maturity Date</b>	January 2011	June 2011
<b>Extensions</b>	2 1-yr extensions	2 1-yr extensions
<b>Loan Balance Due at Maturity</b>	\$20,740,000	\$65,249,799
<b>Loan Collateral</b>	Property	Property
<b>Prepayment Provision</b>	Open during last 90 days of loan. Prior to that it is prepaid with lender Make Whole	Release prices of 135% of loan basis per unit
<b>Principal Terms of Sale</b>	N/A	N/A
<b>Renovation / Improvement Plan</b>	Complete	None.
<b>Competitive Conditions</b>	Occupancy exceeds market competitors. Limited supply coming online. Rents have been adjusted to retain tenants to address economic conditions.	Occupancy has increased from 75% at closing to a high of 97%. Occupancy continues to exceed budget of 95%.

**Notes:** RSF stands for rentable square feet.

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The following table sets forth certain information with respect to the tenancy, leases and occupancies of Woodstone Apartment Homes and The Cove and The Shores:

<b>Property</b>	<b>Woodstone Apartment Homes</b>	<b>The Cove and The Shores</b>
Square Feet	146,580	396,978
Occupancy 2009	96.08%	95.70%
Occupancy 2008	88.26%	96.00%
Occupancy 2007	97.55%	N/A
Occupancy 2006	94.12%	N/A
Occupancy 2005	91.20%	N/A
Major Tenants (=>10% of RSF)	None	None
Major Tenant Business / Occupation	None	None
Average Monthly Rent 2009	\$ 897 / Unit	\$ 1,304 / Unit
Average Monthly Rent 2008	\$ 929 / Unit	\$ 1,316 / Unit
Average Monthly Rent 2007	\$ 927 / Unit	N/A
Average Monthly Rent 2006	\$ 893 / Unit	N/A
Average Monthly Rent 2005	\$ 834 / Unit	N/A
Lease Expirations in 2009	71	410
Lease Expirations in 2010	133	74
Annual Rent for Expiring Leases 2009	\$ 764,244	\$ 6,453,444
Annual Rent for Expiring Leases 2010	\$ 1,431,612	\$ 1,103,256
RSF covered by Expiring Leases 2009	51,016	339,020
RSF covered by Expiring Leases 2010	95,564	57,958
Percentage of Gross Annual Rent for Expiring Leases 2009	34.8%	85.4%
Percentage of Gross Annual Rent for Expiring Leases 2010	65.2%	14.6%

**Note:** RSF stands for rentable square feet.

**KW Services**

Through our services group, KW Services, we offer a comprehensive line of real estate services for the full life-cycle of real estate ownership and investment. KW Services provides property management, auction marketing, brokerage, construction and trust management services to financial institutions, other institutional clients and individual investors. Through our extensive network of property managers and brokers, KW Services provides access to real-time market knowledge and trends, along with proprietary deal flow to KW Investments.

**Property & Asset Management** We currently manage 40 million square feet of office, industrial, and retail properties for over 50 institutional clients and individual investors both in the U.S. and Japan.

**Auction Services** Since inception in 1977, we have sold more than \$5.0 billion of third-party real estate through the auction process. We are considered one of the leaders in auction marketing, having sold various property types on a global basis. The Auction Services group conducts live and online auctions and executes accelerated marketing programs for all types of residential and commercial real estate.

**Commercial Brokerage** The Commercial Brokerage group is comprised of Investment Sales and Leasing groups. The Investment Sales group specializes in innovative marketing programs tailored to client objectives for all types of real estate and various financial instruments collateralized by real estate. Our real estate professionals in the U.S. and Japan have extensive expertise in marketing, property and loan valuation, asset management, equity and debt sourcing, joint venture formation and financing and real estate

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acquisition advisory services. The Leasing group is a leader in both landlord and tenant representation. The group provides clients with a full complement of brokerage services for office, industrial, land, multifamily, retail and capital markets disciplines.

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**Construction Management** The Construction Management group provides construction and project management services to institutional, corporate and individual clients in all areas of commercial and residential real estate. This group provides a full array of services including site and feasibility analysis, land planning and project design, selection of consultants, financing, bidding and construction administration.

**Trust Management** The Trust Management group provides asset and property management services to some of the largest global banks and trust companies holding investment real estate in the U.S., as trustees on behalf of private and institutional fiduciary accounts.

## **Our Strengths**

We believe we have a unique platform from which to execute our investment and services strategy due to the fact we have both an auction business and an investment platform. We believe that our platform provides significant competitive advantages over other real estate buyers operating stand-alone or investment-focused firms and may allow us to generate superior risk-adjusted returns. Our investment strategy focuses on investments that offer significant appreciation potential through intensive property management, leasing, repositioning, redevelopment and the opportunistic use of capital.

Our competitive advantages include:

**Transaction Experience** Our executive committee has more than 125 years of combined real estate experience and has been working and investing together on average for over a decade. Members of the Executive Committee have collectively acquired, developed and managed in excess of \$15 billion of real estate investments in the U.S. and Japan through various economic cycles at our company and throughout prior careers.

**Extensive Relationship and Sourcing Network** We leverage our services business in order to source off-market deals. In addition, the Executive Committee and our acquisition team have transacted business in nearly every major metropolitan market on the west coast of the U.S., as well as in Japan. Their local presence and reputation in these markets has enabled them to cultivate key relationships with major holders of property inventory, in particular financial institutions, throughout the real estate community.

**Structuring Expertise and Speed of Execution** Prior acquisitions completed by us have taken a variety of forms including direct property investments, joint ventures, exchanges involving stock or operating partnership units, participating loans and investments in performing and non-performing mortgages with the objective of long-term ownership. We believe we have developed a reputation of being able to quickly execute, as well as originate and creatively structure acquisitions, dispositions and financing transactions.

**Vertically-Integrated Platform for Operational Enhancement** We are comprised of over 300 professionals in both KW Investments and KW Services, with 22 regional offices throughout the U.S. and Japan. This diversified business model is aimed at ensuring success through real estate cycles. We have a hands-on approach to real estate investing and possess the local expertise in property management, leasing, construction management, development and investment sales, which we believe enables us to invest successfully in its selected submarkets.

**Risk Protection and Investment Discipline** We underwrite our investments based upon a thorough examination of property economics and a critical understanding of market dynamics and risk management strategies. We conduct an in-depth sensitivity analysis on each of our acquisitions. This analysis applies various economic scenarios that include changes to rental rates, absorption periods, operating expenses, interest rates, exit values and holding periods. We use this analysis to develop our disciplined acquisition strategies.

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### Strategy and Target Markets

Our investment style and philosophy has been consistent over the past decade and seeks to drive the ongoing strategy for future investments. The three core fundamentals include:

Significant proprietary deal flow from an established network of industry relationships;

Focus on a systematic research process with a disciplined approach to investing; and

Superior in-house operating execution.

We continue to focus primarily on equity real estate investments, utilizing leverage where determined appropriate. In addition, we also acquire real estate-related financings, such as first trust deeds. Specifically, the investment strategy of our company focuses on the following situations:

Financially distressed/ownership situations;

Under-managed or under-leased assets; and

Repositioning opportunities.

We intend to pursue acquisition opportunities for our current investment platforms as follows:

Commercial Platform Take advantage of office, industrial and retail debt maturities;

Funds Value add/opportunistic strategy; dedicated capital for a variety of deal types;

Condo Platform Distressed condo deals; reposition and exit;

Residential Platform Combination of current return from multi-family projects and capital return from condo projects; and

First Trust Deed Platform Fills void in lending market; provides 10% + unlevered current yield and potential to own real estate at very attractive basis in event of foreclosure.

Our initial target submarkets, which include southern California, the San Francisco Bay area, the Puget Sound area (Greater Seattle), Hawaii and the Greater Tokyo area, share certain similar characteristics that we believe can create investment opportunities. Among these commonalities are dense populations, high barriers to entry, scarcity of land and supply constraints.

KW Services plays a critical role in supporting our investment strategy and various platforms. KW Services intends to continue to facilitate the gathering of local market intelligence and market data for evaluating and valuing investments, generate proprietary transaction flow and create value once an investment is made through efficient implementation of asset management or repositioning strategies.

**Industry and Market Overview**

*United States*

We believe that the acquisition outlook for 2010 and beyond is one of opportunity. Since capitalization rates have begun to rise and based on our market analysis, well-capitalized investors will potentially be able to purchase properties at significant discounts to historical cost that may provide significant cash-on-cash returns. The recent credit crunch in the financial markets has dried up liquidity. As a result, many financial institutions have been forced to mark-to-market or sell both their performing and non-performing assets in order to firm up their balance sheets. We believe that U.S. financial institutions and publicly traded companies, such as Real Estate Investment Trusts, will continue to be forced sellers of their real estate hard assets and loans for the next several quarters.

Due to the current disarray in the financial markets, many U.S. real estate markets are experiencing a downturn in occupancy and property values. Unlike the last cycle, this downturn has been driven by the lack of

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liquidity and the tightening of the credit markets rather than by an oversupply of new product. We believe that underlying real estate fundamentals have remained solid, particularly in major metropolitan and downtown areas where supply constraints exist, and companies continue to consolidate in proximity to their corporate headquarters. Also, downward pricing pressures exist that create potential buying opportunities. We will seek to exploit the opportunities caused by the current economic downturn and closed capital markets by identifying the cities and submarkets that have the most predictable, near-term positive indicators.

We believe the recent economic, capital and credit markets events will create tremendous buying opportunities as properties may be purchased at significant discounts to historical cost. Many asset dispositions will result from:

forced liquidation through bankruptcy proceedings;

companies reducing real estate portfolios to raise cash to shore up their balance sheets; and

highly leveraged property owners who will have loans come due in 2010 and 2011 and will be unable to refinance.

As sellers are under greater pressure to move assets off of their balance sheets, our strong sourcing relationships will position us as the buyer of choice to acquire properties at steep discounts. Sellers will look to firms that they have relationships with and can execute quickly and discreetly. We have long-standing relationships with healthy regional and international lenders who have expressed an ability and willingness to offer financing for investments.

Although interest rates remain low, the lack of available debt has constrained highly-leveraged buyers. We believe that the timing of the real estate market cycle combined with our deep market relationships, systematic research process and cross-platform synergies will be crucial to its potential success.

## ***Japan***

We predict that Japan, while still subject to the same market forces affecting economies across the globe, will likely experience a downturn that is shorter than that in other industrialized economies as the Japanese banking system remains strong relative to its peers. We believe that the country's economy is in a better position to weather current economic conditions relative to the economies of certain other countries because over the past decade Japanese households generally have saved money, and companies have steeply reduced their debt as a proportion of GDP. In the current credit environment, as in the U.S., highly-leveraged investors in Japan have been forced to reduce their debt resulting in a rise in capitalization rates.

Japan's current demographic trends include an influx of migration to major cities creating strong demand for housing. Our research shows that real estate fundamentals have remained strong in Greater Tokyo's residential market, and, in particular, in Tokyo's three major wards: Minato-ku, Shibuy-ku, and Setagaya-ku. With diminishing supply of new inventory due to stricter building regulations imposed in 2007, rents for quality assets are expected to remain strong while vacancy rates remains stable. We expect that properties in the Greater Tokyo area that are newer and of higher quality will remain target assets for acquisition by many institutional investors.

## **Competition**

We compete with a range of both local and national real estate firms, individual investors and corporations. Because of our unique combination of businesses, we compete with brokerage and property management companies as well as companies that invest in real estate and distressed notes. The brokerage and property management businesses are both highly fragmented and competitive. We compete with real estate brokerage companies on the basis of our relationship with property owners, quality of service, and commissions charged. We compete with property management and leasing firms also on the basis of our relationship with clients, the range and quality of services provided, and fees and commissions charged. Our investment operations compete to



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varying degrees with real estate investment partnerships and other investment companies. We compete with these other investors on the basis of our relationship with the sellers and our ability to close an investment transaction in a short time period at competitive pricing.

We differentiate ourselves from other firms in the industry with our full service, investment oriented structure. Whereas most other firms use an investment platform to obtain additional service business revenue, we use our service platform to enhance the investment process and ensure the alignment of interest with our investors.

Since each market and opportunity is unique, different competitors surface in each transaction. Due to our proprietary sourcing capabilities, we often acquire properties in off-market transactions where we face limited competition. In more widely marketed transactions, our significant on-the-ground operations provide insight into market conditions and trends that we believe allows for informed acquisition strategies.

In contrast to our vertically-integrated platform and deep market knowledge, many large institutional players act as asset allocators and rely on firms similar to us and the third-party brokerage community to source their deals. These competitors tend to focus on large, widely-marketed Class A properties that do not require significant on-the-ground expertise, hands-on redevelopment or local market knowledge.

We also compete for investment opportunities with regional investors and developers who understand the local markets but lack the equity to close deals with their own capital.

Due to our reputation for certainty of close, capital availability and discretion in publicizing deals, we are often able to acquire properties even when we are not the highest bidder. Our relationship-driven approach, reputation for certainty of close, local market knowledge and on-the-ground experience strongly position us when compared to our competition.

## **Markets**

We believe that real estate is a local business. With this in mind, we intend to continue to focus on the markets that we know well through both our investment experience and service businesses. We intend to continue to target markets that we have been successful in historically due to our in-depth knowledge and relationships.

Our focused research process begins with a macro analysis (economic growth, overall market cycles, property specific cycles, availability and pricing, ranking/evaluation) and ends with a micro analysis (submarket/neighborhood analysis, site analysis, due diligence and risk/return analysis). We will often leverage KW Services to access real-time market knowledge and trends to determine our investment analysis and strategy process and choices of markets/submarkets. This rigorous process continues to be a key driver of our investment decisions.

The choice of markets and submarkets for our investment strategy will be based on a research-driven process that involves five stages of extensive analysis.

*Stage 1: Growth Composite of Employment/Population/Income Compared to Nation.* Each city is analyzed using a composite index of growth that weighs the last six years of growth history with the next five years of forecasted employment, population and income trends as compared to the overall nation. The risk of the growth forecast and the stability of the economic base and political climate are also considered at this stage.

*Stage 2: Evaluation of a City's Overall Market Cycle Position by Property Type.* In the second stage, macro market cycle analysis is conducted by property type. Certain statistical adjustments are then applied to the geographical submarkets within each city to determine if a city, and property type is operating above or below equilibrium, and if market upside potential exists within each city and property type.

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*Stage 3: Product Specific Cycle Analysis in Each City.* This stage requires extensive market research and interviews with local experts at the submarket level. In this stage, each product type is evaluated with respect to its upside potential. Three types of cycles and upside potential are measured at this stage:

occupancy cycle upside,

rent rate cycle upside, and

Property value upside.

A key part of this analysis is to determine what discounts from replacement cost and current cash-on-cash returns can be achieved relative to the upside potential for each property type. We seek to buy well-located properties at prices substantially below replacement cost.

*Stage 4: Evaluation of Product Availability and Pricing.* The focus in this stage is to determine the total product inventory of each targeted property class in the specified market, evaluate recent transactions in the market and submarkets and project the amount of new product that will likely become available for purchase in the future. Based on recent transactions, market studies and interviews with local market experts in each city (brokers, appraisers and market researchers), the expected economics of properties purchased in the future are estimated, including estimates of capitalization rates, rents, occupancy levels and sales prices relative to replacement cost.

*Stage 5: Ranking/Evaluation Relative to our Investment Strategy.* In the final stage of the evaluation process, the overall desirability of each city for investment is evaluated within the context of our investment strategy. The market niches that offer the most upside are identified, and a strategy is developed to capitalize on those niches. During this step, investment allocations are suggested for each city, including the amount of capital to be invested in each city and product type over a defined investment time horizon.

In parallel with our thorough examination of market dynamics, we conduct an in-depth risk management analysis on each of our acquisitions. This analysis applies various economic conditions and scenario forecasts that include changes to rental rates, operating expenses, interest rates, exit values and holding periods. We use this analysis to develop our disciplined pricing strategies.

This market analysis will help to determine the acquisition strategies for a variety of markets and submarkets that have the highest probability for near-term value appreciation and to develop operating and exit strategies that enhance returns and limit risk exposure.

## **Clients and Customers**

We have long and extensive relationships with a broad range of prominent institutions with which we have invested through joint venture and fund arrangements and for which we have provided services. These institutions include sovereign funds, financial institutions, insurance companies, pension funds, endowments, money managers and family offices.

## **Employees**

As of January 31, 2010, we had approximately 300 employees. We consider our relationship with our employees to be good and have not experienced any interruptions of our operations as a result of labor disagreements.

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**Item 1A. Risk Factors**

*Our results of operations and financial condition can be adversely affected by numerous risks. You should carefully consider the risk factors detailed below in conjunction with the other information contained in this report. If any of the following risks actually occur, our business, financial condition, operating results, cash flows and/or future prospects could be materially adversely affected.*

**Risks Related to Our Business**

**The success of our business is significantly related to general economic conditions and the real estate industry and, accordingly, our business has been and could continue to be harmed by the economic slowdown and downturn in real estate asset values, property sales and leasing activities.**

Our business is closely tied to general economic conditions and the real estate industry. As a result, our economic performance, the value of our real estate and real estate secured notes, and our ability to implement our business strategies may be affected by changes in national and local economic conditions. The condition of the real estate markets in which we operate tends to be cyclical and related to the condition of the economy in the U.S. and Japan as a whole and to the perceptions of investors of the overall economic outlook. Rising interest rates, declining demand for real estate or periods of general economic slowdown or recession have had a direct negative impact on the real estate market in the past and a recurrence of these conditions in the U.S. or a deeper recession in Japan could result in a reduction in our revenues. In addition, the economic condition of each local market where we operate may be dependent on one or more industries. Our ability to change our portfolio promptly in response to economic or other conditions is limited. Certain significant expenditures, such as debt service costs, real estate taxes, and operating and maintenance costs are generally not reduced when market conditions are poor. These factors would impede us from responding quickly to changes in the performance of our investments and could adversely impact our business, financial condition and results of operations. We have experienced in past years, are currently experiencing, and expect in the future to be negatively impacted by, periods of economic slowdown or recession, and corresponding declines in the demand for real estate and related services, within the markets in which we operate. The current economic recession has been extraordinary for its worldwide scope, its severity and its impact on major financial institutions, among other aspects. The current recession and the downturn in the real estate market have resulted in and/or may continue to result in:

a general decline in rents due to defaulting tenants or less favorable terms for renewed or new leases;

fewer purchases and sales of properties by clients, resulting in a decrease in property management fees and brokerage commissions;

a decline in actual and projected sale prices of our properties resulting in lower returns on the properties in which we have invested;

higher interest rates, higher loan costs, less desirable loan terms and a reduction in the availability of mortgage loans and mezzanine financing, all of which could increase costs and could limit our ability to acquire additional real estate assets; and

a decrease in the availability of lines of credit and other sources of capital used to purchase real estate investments and distressed notes.

**We could lose part or all of our investment in the real estate properties we have interests in, which could have a material adverse effect on our financial condition and results of operations.**

There is the inherent possibility in all of our real estate investments that we could lose all or part of our investment. Real estate investments are generally illiquid, which may affect our ability to change our portfolio in response to changes in economic and other conditions. Moreover, in our joint ventures and funds that invest in

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real estate, we may not be able to unilaterally decide the timing of the disposition of an investment, and as a result, may not control when and whether any gain will be realized or loss avoided. The value of our investments can also be diminished by:

civil unrest, acts of war and terrorism and acts of God, including earthquakes, hurricanes and other natural disasters (which may result in uninsured or underinsured losses);

the impact of present or future legislation in the U.S. or in Japan (including environmental regulation, changes in laws concerning foreign ownership of property, changes in real estate tax rates, changes in zoning laws and laws requiring upgrades for disabled persons) and the cost of compliance with these types of legislation; and

liabilities relating to claims to the extent insurance is not available or is inadequate.

### **We may be unsuccessful in renovating the development properties we acquire resulting in investment losses.**

Part of our investment strategy is to locate and acquire real estate assets that we believe are undervalued and to improve them to increase their resale value. We face risks arising from the acquisition of properties not yet fully developed or in need of substantial renovation or redevelopment, particularly the risk that we overestimate the value of the property and the risk that the cost or time to complete the renovation or redevelopment will exceed the budgeted amount. Such delays or cost overruns may arise from:

shortages of materials or skilled labor;

a change in the scope of the original project;

the difficulty in obtaining necessary zoning, land-use, environmental, building, occupancy and other governmental permits and authorization;

the discovery of structural or other latent defects in the property once construction has commenced; and

delays in obtaining tenants.

Any failure to complete a redevelopment project in a timely manner and within budget or to sell or lease the project after completion could have a material adverse effect upon our business, results of operation and financial condition.

### **We may not recover part or any of our investment in the mezzanine loans we make or acquire due to a number of factors including the fact that such loans are subordinate to the interests of senior lenders.**

We have made and expect to continue to make or acquire mezzanine loans, which are loans that are secured by real property, but are subject to the interests of lenders who are senior to us. These mezzanine loans are considered to involve a high degree of risk compared to other types of loans secured by real property. This is due to a variety of factors, including that a foreclosure by the holder of the senior loan could result in its mezzanine loan becoming uncollectible. Accordingly, we may not recover the full amount, or any, of our investment in mezzanine loans. In addition, mezzanine loans may have higher loan to value ratios than conventional term loans.

### **Our operations in Japan subject us to additional social, political and economic risks associated with conducting business in foreign countries, which may materially adversely effect our business and results of operations.**

## Edgar Filing: Kennedy-Wilson Holdings, Inc. - Form 10-K

One of our strategies for the future is to continue our operations and investments in Asia, particularly in Japan. In furtherance of this strategy, we expect to commit additional resources to expand our sales and marketing activities in Japan and expand our service offerings and products in selected markets throughout Asia.

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If we are successful in implementing this strategy, the increased scope of our international operations may lead to more volatile financial results and difficulties in managing our businesses. This volatility and difficulty could be caused by, among other things, the following:

restrictions and problems relating to the repatriation of profits;

difficulties and costs of staffing and managing international operations;

the burden of complying with multiple and potentially conflicting laws;

laws restricting foreign companies from conducting business and unexpected changes in regulatory requirements;

the impact of different business cycles and economic instability;

political instability and civil unrest;

greater difficulty in perfecting our security interests, collecting accounts receivable, foreclosing on security and protecting our interests as a creditor in bankruptcies in certain geographic regions;

potentially adverse tax consequences;

share ownership restrictions on foreign operations;

Japanese property and income taxes, tax withholdings and tariffs; and

geographic, time zone, language and cultural differences between personnel in different areas of the world.

The current economic downturn has significantly affected countries throughout Asia, including Japan. The worldwide recession has led to falling stock prices and asset values in Asia and reduced economic growth prospects in Asia. Several property markets in Asia have been affected by real estate developments that resulted in an oversupply of completed or partially completed space. Property prices have fallen along with prices of other investments and asset values.

### **Our joint venture activities subject us to unique third-party risks, including risks that other participants may become bankrupt or take action contrary to our best interests.**

We have utilized joint ventures for large commercial investments and real estate developments. We plan to continue to acquire interests in additional limited and general partnerships, joint ventures and other enterprises, collectively referred to herein as "joint ventures", formed to own or develop real property or interests in real property or note pools. It is our strategy in Japan to invest primarily through joint ventures. We have acquired and may acquire minority interests in joint ventures and we may also acquire interests as a passive investor without rights to actively participate in management of the joint ventures. Investments in joint ventures involve additional risks, including the possibility that the other participants may become bankrupt or have economic or other business interests or goals which are inconsistent with ours, that we will not have the right or power to direct the management and policies of the joint ventures and that other participants may take action contrary to our instructions or requests and against our policies and objectives. Should a participant in a material joint venture act contrary to our interest, it

## Edgar Filing: Kennedy-Wilson Holdings, Inc. - Form 10-K

could have a material adverse effect upon our business, results of operations and financial condition. Moreover, we cannot be certain that we will continue these investments, or that we can identify suitable joint venture partners and form new joint ventures in the future.

**We purchase distressed notes that have a higher risk of default and delinquencies than newly originated loans and as a result, we may lose part or all of our investment in such notes.**

We may purchase notes that are unsecured or secured by real or personal property. These notes are generally non-performing or sub-performing, and often are in default at the time of purchase. In general, the distressed notes we acquire are highly speculative investments and have a greater than normal risk of future defaults and delinquencies as compared to newly originated loans. Returns on loan investments depend on the borrower s

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ability to make required payments or, in the event of default, our security interests, if any, and our ability to foreclose and liquidate whatever property may be securing the note. We cannot be sure that we will be able to collect on a defaulted loan or foreclose on security successfully or in a timely fashion. There may also be instances when we are able to acquire title to an underlying property and sell it, but not make a profit on its investment.

### **We may not be successful in competing with companies in the real estate services and investment industry, some of which may have substantially greater resources than we do.**

Real estate services and investment businesses are highly competitive. Our principal competitors include both large multinational companies and national and regional firms, such as Jones Lang LaSalle, Inc. and CB Richard Ellis, Inc. Many of our competitors have greater financial resources and a broader global presence than we do. We compete with companies in the U.S., and to a limited extent, in Japan, with respect to:

selling commercial and residential properties on behalf of customers through brokerage and auction services;

leasing and property management, including construction and engineering services;

purchasing commercial and residential properties, as well as undeveloped land for our own account; and

acquiring secured and unsecured loans.

Our property management operations must compete with a growing number of national firms seeking to expand market share. There can be no assurance that we will be able to continue to compete effectively, maintain current fee levels or arrangements, continue to purchase investment property profitably or avoid increased competition.

### **If we are unable to maintain or develop new client relationships, our property management business and financial condition could be substantially impaired.**

We are highly dependent on long-term client relationships and on revenues received for services under various property management agreements with third-party owners and related parties. A considerable amount of our revenues are derived from fees related to these agreements.

The majority of our property management agreements are cancelable prior to their expiration by the client for any reason on as little as 30 to 60 days' notice. These contracts also may not be renewed when their respective terms expire. If we fail to maintain existing relationships, fail to develop and maintain new client relationships or otherwise lose a substantial number of management agreements, we could experience a material adverse change in our business, financial condition and results of operations.

### **Decreases in the performance of the properties we manage are likely to result in a decline in the amount of property management fees and leasing commissions we generate.**

Our property management fees are generally structured as a percentage of the revenues generated by the properties that we manage. Similarly, our leasing commissions typically are based on the value of the lease commitments. As a result, our revenues are adversely affected by decreases in the performance of the properties we manage and declines in rental value. Property performance will depend upon, among other things, our ability to control operating expenses (some of which are beyond our control), and financial conditions generally and in the specific areas where properties are located and the condition of the real estate market generally. If the performance or rental values of the properties we manage decline, the management fees and leasing commissions we derive from such properties could be materially adversely affected.



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**Our leasing activities are contingent upon various factors including tenant occupancy and rental rates, which if adversely affected, could cause our operating results to suffer.**

A significant portion of our property management business involves facilitating the leasing of commercial space. In certain areas of operation, there may be inadequate commercial space to meet demand and there is a potential for a decline in the number of overall lease and brokerage transactions. In areas where the supply of commercial space exceeds demand, we may not be able to renew leases or obtain new tenants for our owned and managed rental properties as leases expire. Moreover, the terms of new leases and renewals (including renovation costs or costs of concessions to tenants) may be less favorable than current leases. Our revenues may be adversely affected by the failure to promptly find tenants for substantial amounts of vacant space, if rental rates on new or renewal leases are significantly lower than expected, or if reserves for costs of re-leasing prove inadequate. We cannot be sure that we can continue to lease properties for our clients and for our own account in a profitable manner.

Our ability to lease properties also depends on:

the attractiveness of the properties to tenants;

competition from other available space;

our ability to provide for adequate maintenance and insurance and to pay increased operating expenses which may not be passed through to tenants;

the availability of capital to periodically renovate, repair and maintain the properties, as well as for other operating expenses; and

the existence of potential tenants desiring to lease the properties.

**If we are unable to identify, acquire and integrate suitable acquisition targets, our future growth will be impeded.**

Acquisitions and expansion have been, and will continue to be, a significant component of our growth strategy for the future. While maintaining our existing business lines, we intend to continue to pursue a sustained growth strategy by increasing revenues from existing clients, expanding the breadth of our service offerings, seeking selective co-investment opportunities and pursuing strategic acquisitions.

Our ability to manage our growth will require us to effectively integrate new acquisitions into our existing operations while managing development of principal properties. We expect that significant growth in several business lines occurring simultaneously will place substantial demands on our managerial, administrative, operational and financial resources. We cannot be sure that we will be able to successfully manage all factors necessary for a successful expansion of our business. Moreover, our strategy of growth depends on the existence of and our ability to identify attractive and synergistic acquisition targets. The unavailability of suitable acquisition targets, or our inability to find them, may result in a decline in business, financial condition and results of operations.

**Our business is highly dependent upon the economy and real estate market in California which has recently experienced a significant downturn and is vulnerable to future decline.**

We have a high concentration of our business activities in California. Consequently, our business, results of operations and financial condition are dependent upon general trends in the California economy and real estate market. The California economy has experienced a significant downturn in the current recession and a sustained decline in the value of California real estate. Real estate market declines in California have become so severe that the market value of a number of properties securing loans has become significantly less than the outstanding balances of those loans. Real estate market declines may negatively affect our ability to sell property at a profit. In addition, California historically has been vulnerable to certain natural disaster risks, such as earthquakes, floods, wild fires and erosion-caused mudslides. The existence of adverse economic conditions or the occurrence of natural disasters in California could have a material adverse effect on our business, financial condition and results of operations.



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**Our auction services business has historically been countercyclical and, as a result, our operating results may be adversely affected when general economic conditions are improving.**

Our results of operations are dependent on the performance of our auction services group, which historically has been countercyclical. Our auction services group has recently experienced an increase in revenues due to, among other things, the substantial increase in the number of foreclosures stemming from the current economic crisis. Improvements in general economic conditions may cause auction service revenues to decrease, which could cause a material adverse impact on our results of operations.

**We own real estate properties located in Hawaii, which subjects us to unique risks relating to, among other things, the current recession in Hawaii, Hawaii's economic dependence on fluctuating tourism, the isolated location of Hawaii and the potential for natural disasters.**

We conduct operations and own properties in Hawaii. Consequently, our business, results of operations and financial condition are dependent upon and affected by general trends in the Hawaiian economy and real estate market. The Hawaiian economy has experienced a significant downturn in the current recession and a sustained decline in the value of Hawaiian real estate. Real estate market declines may negatively affect our ability to sell property at a profit. In addition, Hawaii's economy is largely dependent upon tourism, which is subject to fluctuation and has recently experienced a significant drop. Hawaii historically has also been vulnerable to certain natural disaster risks, such as tsunamis, hurricanes and earthquakes, which could cause damage to properties owned by us or property values to decline in general. Hawaii's remote and isolated location also may create additional operational costs and expenses, which could have a material adverse impact on our financial results.

**We have certain obligations in connection with our real estate brokerage services which could subject us to liability in the event litigation is initiated against us for an alleged breach of any such obligation.**

As a licensed real estate broker, we and our licensed employees are subject to certain statutory due diligence, disclosure and standard-of-care obligations. Failure to fulfill these obligations could subject us or our employees to litigation from parties who purchased, sold or leased properties they brokered or managed. In addition, we may become subject to claims by participants in real estate sales claiming that we did not fulfill our statutory obligations as a broker.

**We may become subject to claims for construction defects or other similar actions in connection with the performance of our property management services.**

In our property management capacity, we hire and supervise third-party contractors to provide construction and engineering services for our properties. While our role is limited to that of a supervisor, we cannot be sure that we will not be subjected to claims for construction defects or other similar actions. Adverse outcomes of property management litigation could have a material adverse effect on our business, financial condition and results of operations.

**Our properties may subject us to potential environmental liability.**

Under various federal, state and local laws, ordinances and regulations, a current or previous owner or operator of real estate may be liable for the cleanup of hazardous or toxic substances and may be liable to a governmental entity or to third parties for property damage and for investigation and clean-up costs incurred by governmental entities or third parties in connection with the contamination. Such laws typically impose liability without regard to whether the owner or operator knew of, or was responsible for, the presence of the hazardous or toxic substances, even when the contaminants were associated with previous owners or operators. The costs of investigation, remediation or removal of hazardous or toxic substances may be substantial, and the presence of those substances, or the failure to properly remediate those substances, may adversely affect the owner's or operator's ability to sell or rent the affected property or to borrow using the property as collateral. The presence of contamination at a property can impair the value of the property even if the contamination is migrating onto

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the property from an adjoining property. Additionally, the owner of a site may be subject to claims by parties who have no relation to the property based on damages and costs resulting from environmental contamination emanating from the site.

In connection with the direct or indirect ownership, operation, management and development of real properties, we may be considered an owner or operator of those properties or as having arranged for the disposal or treatment of hazardous or toxic substances. Therefore, we may be potentially liable for removal or remediation costs.

Certain federal, state and local laws, regulations and ordinances also govern the removal, encapsulation or disturbance of asbestos-containing materials during construction, remodeling, renovation or demolition of a building. Such laws may impose liability for release of asbestos-containing materials, and third parties may seek recovery from owners or operators of real properties for personal injuries associated with asbestos-containing materials. We may be potentially liable for those costs for properties that we own. In the past, we have been required to remove asbestos from certain buildings that we own. There can be no assurance that in the future we will not be required to remove asbestos from our buildings or incur other substantial costs of environmental remediation.

Before consummating the acquisition of a particular piece of property, it is our policy to retain independent environmental consultants to conduct a thorough environmental review of the property to check for contaminants, including performing a Phase I environmental review. These assessments have included, among other things, a visual inspection of the properties and the surrounding area and a review of relevant federal, state and historical documents. To date, the assessments we have had done have not revealed any environmental liability that we believe would have a material adverse effect on our business, assets or results of operations as a whole, nor are we aware of any material environmental liability of the types described. Nevertheless, it is possible that the assessments we commissioned do not reveal all environmental liabilities or that there are material environmental liabilities of which we are currently unaware. There can be no assurance that future laws, ordinances or regulations will not impose any material environmental liability or that the current environmental condition of our properties will not be affected by tenants, by the condition of land or operations in the vicinity of those properties, or by unrelated third parties. We have not been notified by any governmental authority, and are not otherwise aware of any material noncompliance, liability or claim relating to hazardous or toxic substances in connection with any of our properties. There can be no assurance that federal, state and local agencies or private plaintiffs will not bring these types of actions in the future, or that those actions, if adversely resolved, would not have a material adverse effect on our business, financial condition and results of operations.

### **We may incur unanticipated expenses relating to laws benefiting disabled persons.**

The Americans with Disabilities Act, or the ADA, generally requires that public accommodations such as hotels and office buildings be accessible to disabled people. We believe that our properties are in substantial compliance with the ADA and that we will not be required to make substantial capital expenditures to address the requirements of the ADA. If, however, our properties are not in compliance with the ADA, the U.S. federal government could fine us or private litigants could be awarded money damages. If we are required to make substantial alterations to one or more of our properties, our results of operations could be materially adversely affected.

### **We may incur significant costs complying with laws, regulations and covenants that are applicable to our properties and operations.**

The properties in our portfolio and our operations are subject to various covenants and federal, state and local laws and regulatory requirements, including permitting and licensing requirements. Such laws and regulations, including municipal or local ordinances, zoning restrictions and restrictive covenants imposed by community developers may restrict our use of our properties and may require us to obtain approval from local officials or community standards organizations at any time with respect to our properties, including prior to

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acquiring a property or when undertaking renovations of any of our existing properties. Among other things, these restrictions may relate to fire and safety, seismic, asbestos-cleanup or hazardous material abatement requirements. There can be no assurance that existing laws and regulations will not adversely affect us or the timing or cost of any future acquisitions or renovations, or that additional regulations will not be adopted that increase such delays or result in additional costs. Our failure to obtain required permits, licenses and zoning relief or to comply with applicable laws could have a material adverse effect on our business, financial condition and results of operations.

**Our property insurance coverages are limited and any uninsured losses could cause us to lose part or all of our investment in our insured properties.**

We carry comprehensive general liability coverage and umbrella coverage on all of our properties with limits of liability which we deem adequate and appropriate under the circumstances (subject to deductibles) to insure against liability claims and provide for the cost of legal defense. There are, however, certain types of extraordinary losses that may be either uninsurable, or that are not generally insured because it is not economically feasible to insure against those losses. Should any uninsured loss occur, we could lose our investment in, and anticipated revenues from, a property, which loss or losses could have a material adverse effect on our operations. Currently, we also insure some of our properties for loss caused by earthquake in levels we deem appropriate and, where we believe necessary, for loss caused by flood. We cannot be sure that the occurrence of an earthquake, flood or other natural disaster will not have a materially adverse effect on our business, financial condition and results of operations.

**Risks Related to Our Company**

**If we are unable to raise additional debt and equity capital, our results of operations could suffer.**

We depend upon third-party equity and debt financings to acquire properties through our investment business, which is a key driver of future growth. We estimate that in the next 12 to 18 months our acquisition plan will require between approximately \$650 million and \$1.3 billion in third-party equity and between approximately \$1.3 billion and \$2.6 billion in third-party debt. We expect to obtain debt financing from seller financing, the assumption of existing loans, government agencies and financial institutions. We expect to obtain equity financing from separate account investors and fund investors, which include pension funds, family offices, financial institutions, endowments and money managers. Our access to capital funding is uncertain. The current global economic crisis has resulted in a severe tightening of the credit markets as well as other sources of capital. Our inability to raise additional capital on terms reasonably acceptable to us could jeopardize the future success of our business.

**The loss of one or more key personnel could have a material adverse effect on our operations.**

Our continued success is dependent to a significant degree upon the efforts of our senior executives, who have each been essential to our business. Certain of our executives have employment contracts with us that are renewable annually. The departure of all or any of our executives for whatever reason or the inability of all or any of them to continue to serve in their present capacities or our inability to attract and retain other qualified personnel could have a material adverse effect upon our business, financial condition and results of operations. Our executives have built highly regarded reputations in the real estate industry. Our executives attract business opportunities and assist both in negotiations with lenders and potential joint venture partners and in the representation of large and institutional clients. If we lost their services, our relationships with lenders, joint ventures and clients would diminish significantly.

In addition, certain of our officers have strong regional reputations and they aid in attracting and identifying opportunities and negotiating for us and on behalf of our clients. In particular, we view the establishment and maintenance of strong relationships through certain officers as critical to our success in the Japanese market. As we continue to grow, our success will be largely dependent upon our ability to attract and retain qualified

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personnel in all areas of business. We cannot be sure that we will be able to continue to hire and retain a sufficient number of qualified personnel to support or keep pace with planned growth.

### **Our revenues and earnings may be materially and adversely affected by fluctuations in foreign currency exchange rates due to our international operations.**

Our revenues from non-U.S. operations have been primarily denominated in the local currency where the associated revenues were earned. Thus, we may experience significant fluctuations in revenues and earnings because of corresponding fluctuations in foreign currency exchange rates. To date, our foreign currency exposure has been limited to the Japanese Yen. Due to the constantly changing currency exposures to which we will be subject and the volatility of currency exchange rates, there can be no assurance that we will not experience currency losses in the future, nor can we predict the effect of exchange rate fluctuations upon future operating results. Our management may decide to use currency hedging instruments from time to time including foreign currency forward contracts, purchased currency options (where applicable) and foreign currency borrowings. The economic risks associated with these hedging instruments include unexpected fluctuations in inflation rates, which could impact cash flow relative to paying down debt, and unexpected changes in our underlying net asset position. There can be no assurance that any hedging will be effective.

### **Our operating results are subject to significant volatility from quarter to quarter as a result of the varied timing and magnitude of our strategic acquisitions and dispositions.**

We have experienced a fluctuation in our financial performance from quarter to quarter due in part to the significance of revenues from the sales of real estate on overall performance. The timing of purchases and sales of our real estate investments has varied, and will continue to vary, widely from quarter to quarter due to variability in market opportunities, changes in interest rates, and the overall demand for residential and commercial real estate, among other things. While these factors have contributed to us experiencing increased operating income and earnings in the fourth quarter in past years, there can be no assurance that we will continue to perform better in the fourth quarter.

In addition, the timing and magnitude of brokerage commissions paid to us may vary widely from quarter to quarter depending upon overall activity in the general real estate market and the nature of our brokerage assignments, among other things.

### **We have in the past and may continue in the future to incur significant amounts of debt to finance acquisitions, which could negatively affect our cash flows and subject our properties or other assets to the risk of foreclosure.**

We have historically financed new acquisitions and property purchases with cash derived from secured and unsecured loans and lines of credit. For instance, we typically purchase real property with loans secured by a mortgage on the property acquired. We anticipate continuing this trend. We do not have a policy limiting the amount of debt that we may incur. Accordingly, our management and board of directors have discretion to increase the amount of our outstanding debt at any time. We could become more highly leveraged, resulting in an increase in debt service costs that could adversely affect results of operations and increase the risk of default on debt.

Much of our debt bears interest at variable rates. As a result, we are subject to fluctuating interest rates that may impact, adversely or otherwise, results of operations and cash flows. We may be subject to risks normally associated with debt financing, including the risk that cash flow will be insufficient to make required payments of principal and interest, and the risk that existing indebtedness on our properties will not be able to be refinanced or that the terms of available new financing will not be as favorable as the terms of existing indebtedness. If we are unable to satisfy the obligations owed to any lender with a lien on one of our properties, the lender could foreclose on the real property or other assets securing the loan and we would lose that property or asset. The loss of any property or asset to foreclosure could have a material adverse effect on our business, financial condition and results of operations.

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**Our debt obligations impose significant operating and financial restrictions, which may prevent us from pursuing certain business opportunities and taking certain actions.**

Our debt obligations impose, and future debt obligations may impose, significant operating and financial restrictions on us. These restrictions limit or prohibit, among other things, our ability to:

incur additional indebtedness;

repay indebtedness (including the notes) prior to stated maturities;

pay dividends on, redeem or repurchase our stock or make other distributions;

make acquisitions or investments;

create or incur liens;

transfer or sell certain assets or merge or consolidate with or into other companies;

enter into certain transactions with affiliates;

sell stock in our subsidiaries;

restrict dividends, distributions or other payments from our subsidiaries; and

otherwise conduct necessary corporate activities.

In addition, our senior secured and one of our unsecured credit facilities require us to maintain compliance with specified financial covenants.

These covenants could adversely affect our ability to finance our future operations or capital needs and pursue available business opportunities. A breach of any of these covenants could result in a default in respect of the related indebtedness. If a default occurs, the relevant lenders could elect to declare the indebtedness, together with accrued interest and other fees, to be immediately due and payable and proceed against any collateral securing that indebtedness. Acceleration of our other indebtedness could result in a default under the terms of the indenture governing the notes.

**We have guaranteed a number of loans in connection with various joint venture partnerships which may result in us being obligated to make substantial payments.**

We have provided guarantees associated with loans secured by assets held in various joint venture partnerships. The maximum potential amount of future payments (undiscounted) we could be required to make under the guarantees was approximately \$35 million at December 31, 2009. The guarantees expire by the year end of 2011 and our performance under the guarantees would be required to the extent there is a shortfall in liquidation between the principal amount of the loan and the net sales proceeds of the property. If we were to become obligated to perform on these guarantees, it could have an adverse effect on our financial condition.

**We may incur expenses associated with defending law suits filed by former holders of Kennedy-Wilson, Inc. stock.**

On November 13, 2009, our wholly owned subsidiary, KW Merger Sub Corp., merged with and into Kennedy-Wilson, Inc. Prior to the merger, a small percentage of Kennedy-Wilson, Inc.'s outstanding common stock was owned by holders who were not known to our management. If one or more of these holders were to bring a claim alleging that members of Kennedy-Wilson, Inc.'s board of directors breached their fiduciary duties in connection with approving the merger, we would incur costs defending and/or settling such claim.



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**Risks Related to Ownership of Our Common Stock**

**Our directors and officers and their affiliates are significant stockholders, which makes it possible for them to have significant influence over the outcome of all matters submitted to stockholders for approval and which influence may be in conflict with our interests and the interests of our other stockholders.**

As of November 14, 2009, our directors and executive officers and their respective affiliates owned an aggregate of approximately 51.3% of the outstanding shares of our common stock. Our directors and executive officers and their respective affiliates also hold warrants which, if exercised, will give them greater control of us. These stockholders will have significant influence over the outcome of all matters submitted for stockholder approval, including the election of our directors and other corporate actions. In addition, such influence by one or more of these affiliates could have the effect of discouraging others from attempting to purchase or take us over and/or reducing the market price offered for our common stock in such an event.

**We may issue additional equity securities which may dilute your interest in us.**

In order to expand our business, we may consider offering and issuing additional equity or equity-based securities. Holders of our securities may experience a dilution in the net tangible book value per share held by them if this occurs. The number of shares that we may issue for cash without stockholder approval will be limited by the rules of the American Stock Exchange or other exchange on which our securities are listed. However, there are generally exceptions which allow companies to issue a limited number of equity securities without stockholder approval which would dilute your ownership.

**The ownership interest of our current stockholders will be substantially diluted if the Guardian Note is converted.**

In connection with our merger with Kennedy-Wilson, Inc., a convertible subordinated note with a principal amount of \$30 million that was issued by Kennedy-Wilson, Inc. to Guardian Life Insurance Company of America ( Guardian ) in November 2008 (the Guardian Note ) became convertible into shares of our common stock pursuant to the terms of the Guardian Note. The Guardian Note bears interest at a fixed rate of 7% payable quarterly and the outstanding balance of the Guardian Note is due on November 3, 2018. Guardian has the option to convert, in whole or in part, the outstanding principal balance and accrued interest of the Guardian Note into common stock at a conversion price of \$9.86 per share any time prior to May 3, 2017. As of February 3, 2010, the outstanding principal balance and accrued interest of the Guardian Note were \$30 million and \$0, respectively. As of February 3, 2010 the estimated number of shares of common stock into which the Guardian Note will be convertible is 3,042,446. To the extent the Guardian Note is converted, additional shares of our common stock will be issued, which will result in dilution to our stockholders and increase the number of shares of common stock eligible for resale into the public market. Sales of such shares of common stock could adversely affect the market price of our common stock.

**If the benefits of our merger with Kennedy-Wilson, Inc. do not meet the expectations of financial or industry analysts, the market price of our common stock may decline.**

The market price of our common stock may decline as a result of the merger if:

we do not achieve the perceived benefits of the merger as rapidly, or to the extent anticipated by, financial or industry analysts; or

the effect of the merger on our financial results is not consistent with the expectations of financial or industry analysts. Accordingly, our stockholders may experience a loss as a result of a decline in the market price of our common stock. In addition, a decline in the market price of our common stock could adversely affect our ability to issue additional securities and our ability to obtain additional financing in the future.

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### **The price of our common stock may be volatile.**

The price of our common stock may be volatile due to factors such as:

changes in real estate prices;

actual or anticipated fluctuations in our quarterly and annual results and those of our publicly held competitors;

mergers and strategic alliances among any real estate companies;

market conditions in the industry;

changes in government regulation and taxes;

shortfalls in our operating results from levels forecasted by securities analysts;

investor sentiment toward the stock of real estate companies in general;

announcements concerning us or our competitors; and

the general state of the securities markets.

**Kennedy-Wilson, Inc. has not recently operated as a reporting company. Fulfilling our obligations as a reporting company going forward will be expensive and time consuming.**

Kennedy-Wilson, Inc. has not been a public reporting company since 2004 and since that time has not been required to document and assess the effectiveness of its internal control procedures in order to satisfy the requirements of Section 404 of the Sarbanes-Oxley Act of 2002. Although we have maintained disclosure controls and procedures and internal control over financial reporting as required under the federal securities laws with respect to our activities, Kennedy-Wilson, Inc. has not been required to establish and maintain such disclosure controls and procedures and internal controls over financial reporting which are required with respect to a public company with substantial operations. Under the Sarbanes-Oxley Act of 2002 and the related rules and regulations of the Securities and Exchange Commission, or the SEC, our management will be required to implement additional corporate governance practices and to adhere to a variety of reporting requirements and accounting rules. Compliance with these obligations will require significant time and resources from our management, finance and accounting staff and will significantly increase our legal, insurance and financial compliance costs. As a result of the increased costs associated with being a reporting company, Kennedy-Wilson, Inc.'s operating income as a percentage of revenue is likely to be lower.

**Our common stock may be delisted, which could limit your ability to trade our common stock and subject us to additional trading restrictions.**

As of March 15, 2010, our common stock and warrants were listed on NYSE AMEX, a national securities exchange. Our common stock has been approved for listing on the New York Stock Exchange and we expect that our common stock will commence trading on the New York Stock Exchange on or about March 19, 2010. We cannot assure you that our common stock will continue to be listed on the New York Stock Exchange in the future. If the New York Stock Exchange delists our common stock from trading on its exchange, we could face significant material adverse consequences, including:

a limited availability of market quotations for our common stock;

a limited amount of news and analyst coverage for our company;

a decreased ability for us to issue additional securities or obtain additional financing in the future; and

limited liquidity for our stockholders due to thin trading.

Our warrants currently do not have a sufficient number of warrantholders to meet applicable continued listing requirements and are expected to be quoted on the Pink Sheets following the delisting from the NYSE

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AMEX so long as market makers demonstrate an interest in trading in our warrants. No assurance can be given that the market makers will continue to make a market in our warrants.

### **Our staggered board may entrench management and discourage unsolicited stockholder proposals that may be in the best interests of stockholders and certain anti-takeover provisions in our organizational documents may discourage a change in control.**

Our second amended and restated certificate of incorporation provides for our board of directors to be divided into three classes, each of which generally serves for a term of three years with only one class of directors being elected in each year. As a result, at any annual meeting only a minority of the board of directors will be considered for election. Since this staggered board would prevent our stockholders from replacing a majority of our board of directors at any annual meeting, it may entrench management and discourage unsolicited stockholder proposals that may be in the best interests of stockholders. Additionally, certain provisions of our second amended and restated certificate of incorporation and our amended and restated bylaws may have an anti-takeover effect and may delay, defer or prevent a tender offer or takeover attempt that a stockholder might consider in its best interest, including those attempts that might result in a premium over the market price for the shares held by stockholders.

In addition, Section 203 of the Delaware General Corporation Law, or DGCL, may, under certain circumstances, make it more difficult for a person who would be an interested stockholder, which is defined generally as a person with 15% or more of a corporation's outstanding voting stock, to effect a business combination with the corporation for a three-year period. A business combination is defined generally as mergers, consolidations and certain other transactions, including sales, leases or other dispositions of assets with an aggregate market value equal to 10% or more of the aggregate market value of the corporation.

These anti-takeover provisions could make it more difficult for a third-party to acquire us, even if the third-party's offer may be considered beneficial by many stockholders. As a result, stockholders may be limited in their ability to obtain a premium for their shares.

### **Item 1B. Unresolved Staff Comments**

None

### **Item 2. Properties**

Our corporate headquarters is located in Beverly Hills, California. We also have 21 other offices throughout the U.S., including our disaster recovery office in Austin, Texas, and one office in Japan. The Beverly Hills office operates as the main investment and asset management center for us in the United States, while the Japan office is the main investment and asset management center for the Japanese operations. The remaining office locations primarily operate as property management satellites. In general, we lease all of our offices. In addition, we have on-site property management offices located within properties that we manage. The most significant terms of the leasing arrangements for our offices are the length of the lease and the rent. Our leases have terms varying in duration. The rent payable under our office leases vary significantly from location to location as a result of differences in prevailing commercial real estate rates in different geographic locations. Our management believes that except as provided below, no single office lease is material to our business, results of operations or financial condition. In addition, our management believes there is adequate alternative office space available at acceptable rental rates to meet our needs, although adverse movements in rental rates in some markets may negatively affect our profits in those markets when we enter into new leases.

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The following table sets forth certain information regarding our corporate headquarters and regional office located in Austin, Texas.

<b>Location</b>	<b>Use</b>	<b>Approximate Square Footage</b>	<b>Lease Expiration</b>
Beverly Hills, CA	Corporate Headquarters	16,000	12/31/2016
Austin, TX	Regional Office; Disaster Recovery Office	6,864	3/31/2012

**Item 3. Legal Proceedings**

We may be involved in various legal proceedings arising in the ordinary course of business, none of which is material to our business. From time to time, our real estate management division is named in slip and fall type litigation relating to buildings we manage. Our standard management agreement contains an indemnity provision whereby the building owner indemnifies and agrees to defend its real estate management division against such claims. In such cases, we are defended by the building owner's liability insurer.

**Item 4. (Removed and Reserved)**

**Table of Contents****PART II****Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities**

Our warrants and common stock have traded on NYSE AMEX since December 3, 2007 under the symbol KWIC. Our common stock has been approved for listing on the New York Stock Exchange under the symbol KW and we expect that our common stock will commence trading on the New York Stock Exchange on or about March 19, 2010. Our warrants currently do not have a sufficient number of warrant holders to meet applicable continued listing requirements and are expected to be quoted on the Pink Sheets following the delisting from the NYSE AMEX so long as market makers demonstrate an interest in trading in our warrants. No assurance can be given that the market makers will continue to make a market in our warrants. Each warrant entitles the holder to purchase one share of its common stock at an exercise price of \$12.50. Our warrants will expire at 5:00 p.m., New York City time, on November 14, 2013, or earlier upon redemption.

The following table sets forth, for the calendar quarter indicated, the high and low closing sales prices per warrant and share of common stock, respectively, as reported on NYSE AMEX. The quotations listed below reflect interdealer prices, without retail markup, markdown or commission and may not necessarily represent actual transactions.

Quarter Ended	Warrants		Common Stock	
	High	Low	High	Low
<b>2009</b>				
First Quarter	\$ 0.07	\$ 0.03	\$ 9.46	\$ 9.20
Second Quarter	\$ 0.17	\$ 0.03	\$ 9.67	\$ 9.49
Third Quarter	\$ 0.63	\$ 0.06	\$ 9.94	\$ 9.67
Fourth Quarter	\$ 1.05	\$ 0.45	\$ 10.25	\$ 8.85
<b>2008</b>				
First Quarter	\$ 0.85	\$ 0.38	\$ 9.20	\$ 8.97
Second Quarter	\$ 0.45	\$ 0.30	\$ 9.31	\$ 9.05
Third Quarter	\$ 0.41	\$ 0.20	\$ 9.50	\$ 9.01
Fourth Quarter	\$ 0.25	\$ 0.05	\$ 9.15	\$ 8.56

**Holders**

As of March 10, 2010, we had 43 holders of record of our common stock and six holders of record of our warrants.

**Dividends**

We have not paid any dividends on our common stock to date. The payment of any dividends is within the discretion of our board of directors. It is the present intention of our board of directors to retain all earnings, if any, for use in our business operations and, accordingly, our board of directors currently does not anticipate declaring any dividends in the foreseeable future.

**Equity Compensation Plan Information**

See Item 12 Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

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**Performance Graph**

The graph below compares the cumulative total return of our common stock from December 3, 2007, the date that our common stock first became tradable separately, through December 31, 2009, with the comparable cumulative return of companies comprising the S&P 500 Index and a peer issuer selected by us. The peer issuer is a company in the real estate services and investment industry. As a result, the performance of our common stock relative to the performance of the common stock of the peer issuer prior to November 13, 2009, may not be representative of future results. The graph plots the growth in value of an initial investment of \$100 in each of our common stock, the S&P 500 Index and a peer issuer selected by us over the indicated time periods, and assumes reinvestment of all dividends, if any, paid on the securities. We have not paid any cash dividends and, therefore, the cumulative total return calculation for us is based solely upon stock price appreciation and not upon reinvestment of cash dividends. The stock price performance shown on the graph is not necessarily indicative of future price performance.

Note: The peer, CB Richard Ellis, is comparable beginning November 13, 2009.

**Table of Contents****Purchases of Equity Securities by the Company and Affiliated Purchasers in the Fourth Quarter of 2009**

<b>Period</b>	<b>Total Number of Shares Purchased</b>	<b>Average Price Paid per Share</b>	<b>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs</b>	<b>Maximum Number (or Approximate Dollar Value) of Shares that May yet be Purchased under the Plans or Programs</b>
November 1 to November 30	10,966,171 <sup>(1)</sup>	\$ 9.95 <sup>(2)</sup>	10,276,571	\$

- (1) Includes: (a) 9,492,397 shares of common stock purchased by us as publicly announced by us on November 11 and 12, 2009; (b) 784,174 shares of common stock purchased by Victory Park Capital Advisors, LLC for prices not to exceed \$0.04 per share above the market price as publicly announced by us on November 11, 2009; (c) 134,600 shares of common stock purchased by certain of our former officers, directors and sponsors in open market transactions; and (d) 555,000 shares of common stock purchased by certain of our current officers and directors in open market transactions.
- (2) Excludes open market transactions made by Victory Park Capital Advisors, LLC and our current and former affiliates.