Table of Contents

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

Form 10-Q

(Mark One)

☑ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the quarterly period ended March 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: 1-32381

HERBALIFE LTD.

(Exact name of registrant as specified in its charter)

Cayman Islands	**98-0377871**
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification No.)*

P.O. Box 309GT
Ugland House, South Church Street
Grand Cayman, Cayman Islands
(Address of principal executive offices) (Zip code)

(310) 410-9600
(Registrant's telephone number, including area code)

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 Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐

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

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 ☑

Number of shares of registrant's common shares outstanding as of April 30, 2009 was 61,548,112

PART I. FINANCIAL INFORMATION

PART II. OTHER INFORMATION

PART I. FINANCIAL INFORMATION

Item 1. ***FINANCIAL STATEMENTS***

HERBALIFE LTD.

CONSOLIDATED BALANCE SHEETS
(Unaudited)

	March 31, 2009	December 31, 2008
	(In thousands, except share amounts)	
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	$ 194,733	$ 150,847
Receivables, net of allowance for doubtful accounts of $8,639 (2009) and $8,988 (2008)	72,300	70,002
Inventories, net	115,705	134,392
Prepaid expenses and other current assets	84,904	89,214
Deferred income taxes	39,921	40,313
Total current assets	507,563	484,768
Property, at cost, net of accumulated depreciation and amortization of $100,260 (2009) and $89,411 (2008)	174,255	175,492
Deferred compensation plan assets	15,142	15,754
Deferred financing costs, net of accumulated amortization of $1,408 (2009) and $1,287 (2008)	1,868	1,989
Marketing related intangibles	310,060	310,060
Goodwill	110,677	110,677
Other assets	20,961	22,578
Total assets	$ 1,140,526	$ 1,121,318
LIABILITIES AND SHAREHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Accounts payable	$ 29,853	$ 41,084
Royalty overrides	125,696	130,369
Accrued compensation	43,690	60,629
Accrued expenses	114,590	104,795
Current portion of long-term debt	6,353	15,117
Advance sales deposits	28,903	12,603
Income taxes payable	44,052	37,302
Total current liabilities	393,137	401,899
NON-CURRENT LIABILITIES:		
Long-term debt, net of current portion	339,126	336,514
Deferred compensation	13,773	13,979
Deferred income taxes	104,331	103,675
Other non-current liabilities	23,621	23,520
Total liabilities	873,988	879,587
CONTINGENCIES		
SHAREHOLDERS' EQUITY:		
Common shares, $0.002 par value, 500.0 million shares authorized, 61.6 million (2009) and 61.4 million (2008) shares issued and outstanding	123	123
Paid-in-capital in excess of par value	201,973	197,715
Accumulated other comprehensive loss	(37,307)	(28,614)
Retained earnings	101,749	72,507
Total shareholders' equity	266,538	241,731
Total liabilities and shareholders' equity	$ 1,140,526	$ 1,121,318

See the accompanying notes to consolidated financial statements

HERBALIFE LTD.

CONSOLIDATED STATEMENTS OF INCOME

	Three Months Ended	
	March 31, 2009	March 31, 2008
	(Unaudited)	
	(In thousands, except per share amounts)	
Product sales	$ 446,948	$ 520,726
Handling & freight income	74,735	83,711
Net sales	521,683	604,437
Cost of sales	102,400	117,666
Gross profit	419,283	486,771
Royalty overrides	175,532	212,720
Selling, general & administrative expenses	181,458	184,400
Operating income	62,293	89,651
Interest expense, net	1,712	3,791
Income before income taxes	60,581	85,860
Income taxes	19,039	23,493
NET INCOME	$ 41,542	$ 62,367
Earnings per share:		
Basic	$ 0.68	$ 0.97
Diluted	$ 0.67	$ 0.93
Weighted average shares outstanding:		
Basic	61,510	64,381
Diluted	61,614	67,200
Dividends declared per share	$ 0.20	$ 0.20

See the accompanying notes to consolidated financial statements

HERBALIFE, LTD.

CONSOLIDATED STATEMENTS OF CASH FLOWS

	Three Months Ended	
	March 31, 2009	March 31, 2008
	(Unaudited) (In thousands)	
CASH FLOWS FROM OPERATING ACTIVITIES		
Net income	$ 41,542	$ 62,367
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	14,821	10,371
Deficiency (Excess) tax benefits from share-based payment arrangements	963	(10,709)
Share based compensation expenses	4,880	5,133
Amortization of discount and deferred financing costs	121	118
Deferred income taxes	586	(92)
Unrealized foreign exchange transaction loss	6,537	1,926
Other	919	556
Changes in operating assets and liabilities:		
Receivables	(4,047)	(13,843)
Inventories	12,235	7,734
Prepaid expenses and other current assets	979	(16,482)
Other assets	750	(77)
Accounts payable	(9,566)	(3,182)
Royalty overrides	(1,035)	(4,156)
Accrued expenses and accrued compensation	(6,703)	4,965
Advance sales deposits	16,666	6,242
Income taxes payable	6,574	12,184
Deferred compensation plan liability	(206)	(255)
NET CASH PROVIDED BY OPERATING ACTIVITIES	86,016	62,800
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchases of property	(14,073)	(23,931)
Deferred compensation plan assets	612	330
NET CASH USED IN INVESTING ACTIVITIES	(13,461)	(23,601)
CASH FLOWS FROM FINANCING ACTIVITIES		
Dividends paid	(12,300)	(12,869)
Borrowings from long-term debt	19,000	—
Principal payments on long-term debt	(25,487)	(32,099)
Increase in deferred financing costs	—	(75)
Share repurchases	—	(17,668)
(Deficiency) Excess tax benefits from share-based payment arrangements	(963)	10,709
Proceeds from exercise of stock options and sale of stock under employee stock purchase plan	365	12,553
NET CASH USED IN FINANCING ACTIVITIES	(19,385)	(39,449)
EFFECT OF EXCHANGE RATE CHANGES ON CASH	(9,284)	3,989
NET CHANGE IN CASH AND CASH EQUIVALENTS	43,886	3,739
CASH AND CASH EQUIVALENTS, BEGINNING OF PERIOD	150,847	187,407
CASH AND CASH EQUIVALENTS, END OF PERIOD	$ 194,733	$ 191,146
CASH PAID DURING THE PERIOD		
Interest paid	$ 3,429	$ 4,976
Income taxes paid	$ 13,374	$ 11,411
NON CASH ACTIVITIES		
Assets acquired under capital leases and other long-term debt	$ 280	$ 657

See the accompanying notes to consolidated financial statements

HERBALIFE LTD.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

1. Organization

Herbalife Ltd., a Cayman Islands exempted limited liability company, or Herbalife, incorporated on April 4, 2002. Herbalife Ltd. (and together with its subsidiaries, the "Company") is a leading global network marketing company that sells weight management, nutritional supplement, energy, sports & fitness products and personal care products through a network of over 1.9 million independent distributors, except in China, where the Company currently sells its products through retail stores and an employed sales force. The Company reports revenue in six geographic regions: North America, which consists of the U.S., Canada and Jamaica; Mexico; South and Central America; EMEA, which consists of Europe, the Middle East and Africa; Asia Pacific (excluding China) which consists of Asia, New Zealand and Australia; and China.

2. Basis of Presentation

The unaudited interim financial information of the Company has been prepared in accordance with Article 10 of the Securities and Exchange Commission's Regulation S-X. Accordingly, it does not include all of the information required by generally accepted accounting principles, or GAAP, in the U.S. for complete financial statements. The Company's unaudited consolidated financial statements as of March 31, 2009, and for the three months ended March 31, 2009 and 2008, include Herbalife and all of its direct and indirect subsidiaries. In the opinion of management, the accompanying financial information contains all adjustments, consisting of normal recurring adjustments, necessary to present fairly the Company's unaudited consolidated financial statements as of March 31, 2009, and for the three months ended March 31, 2009 and 2008. These unaudited consolidated financial statements should be read in conjunction with the Company's Annual Report on Form 10-K for the year ended December 31, 2008, or the 2008 10-K. Operating results for the three months ended March 31, 2009, are not necessarily indicative of the results that may be expected for the year ending December 31, 2009.

Recently Adopted Accounting Pronouncements

In March 2008, the Financial Accounting Standards Board, or FASB, issued Statement of Financial Accounting Standards, or SFAS, No. 161, *Disclosures about Derivative Instruments and Hedging Activities — An Amendment of FASB Statement No. 133,* or SFAS 161. SFAS 161 expands the disclosure requirements for derivative instruments and hedging activities. SFAS 161 specifically requires entities to provide enhanced disclosures addressing the following: (a) how and why an entity uses derivative instruments, (b) how derivative instruments and related hedged items are accounted for under SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities,* or SFAS 133, and its related interpretations, and (c) how derivative instruments and related hedged items affect an entity's financial position, financial performance, and cash flows. SFAS 161 is effective for fiscal years and interim periods beginning after November 15, 2008. The Company adopted SFAS 161 on January 1, 2009. The adoption had no financial impact on the Company's consolidated financial statements and only required additional financial statement disclosures. The Company has applied the requirements of SFAS 161 on a prospective basis. Accordingly, disclosures related to interim and annual periods prior to the date of adoption have not been presented.

In February 2008, the FASB issued FASB Staff Position FAS 157-2, or FSP FAS 157-2. FSP FAS 157-2 delayed the effective date of SFAS No. 157, *Fair Value Measurements,* or SFAS 157, for all nonfinancial assets and nonfinancial liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). FSP FAS 157-2 partially defers the effective date of SFAS 157 to fiscal years beginning after November 15, 2008, and interim periods within those fiscal years for items within the scope of FSP FAS 157-2. On January 1, 2009, the Company adopted the provisions of SFAS 157 for nonfinancial assets and nonfinancial liabilities and the adoption did not have a material impact on its consolidated financial statements.

In December 2007, the FASB issued SFAS, No. 141 (revised 2007), *Business Combinations,* or SFAS 141R, which replaces SFAS 141, *Business Combinations.* SFAS 141R establishes principles and requirements for how an

acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, any non controlling interest in the acquiree and the goodwill acquired. SFAS 141R also modifies the recognition for preacquisition contingencies, such as environmental or legal issues, restructuring plans and acquired research and development value in purchase accounting. SFAS 141R amends SFAS No. 109, *Accounting for Income Taxes,* to require the acquirer to recognize changes in the amount of its deferred tax benefits that are recognizable because of a business combination either in income from continuing operations in the period of the combination or directly in contributed capital, depending on the circumstances. SFAS 141R also establishes disclosure requirements which will enable users to evaluate the nature and financial effects of the business combination. SFAS 141R is effective for fiscal years beginning after December 15, 2008. The Company adopted SFAS 141R on January 1, 2009 and the adoption did not have a material impact on its consolidated financial statements.

New Accounting Pronouncements

In April 2009, the FASB issued FASB Staff Position No. FAS 107-1 and Accounting Principles Board Opinion No. 28-1, *Interim Disclosures about Fair Value of Financial Instruments,* or FSP FAS 107-1. FSP FAS 107-1 amends FASB Statement No. 107, *Disclosures about Fair Value of Financial Instruments*, to require disclosures about fair value of financial instruments for interim reporting periods of publicly traded companies as well as in annual financial statements. FSP FAS 107-1 also amends Accounting Principles Board Opinion No. 28, *Interim Financial Reporting*, to require those disclosures in summarized financial information at interim reporting periods. FSP FAS 107-1 shall be effective for interim reporting periods ending after June 15, 2009, with early adoption permitted for periods ending after March 15, 2009. The Company has elected to adopt FSP FAS 107-1 for its interim period ending June 30, 2009, and believes the adoption of FSP FAS 107-1 will not have a material impact to its consolidated financial statements.

3. Long-Term Debt

Long-term debt consists of the following:

	As of	
	March 31, 2009	December 31, 2008
	(In millions)	
Borrowings under senior secured credit facility	$ 328.5	$ 324.5
Capital leases	6.3	6.9
Other debt	10.7	20.2
Total	345.5	351.6
Less: current portion	6.4	15.1
Long-term portion	$ 339.1	$ 336.5

Interest expense was $3.3 million and $5.5 million for the three months ended March 31, 2009 and 2008, respectively.

On July 21, 2006, the Company entered into a $300.0 million senior secured credit facility, comprised of a $200.0 million term loan and a $100.0 million revolving credit facility, with a syndicate of financial institutions as lenders and replaced a $225.0 million senior secured credit facility, originally entered into on December 21, 2004. In September 2007, the Company and its lenders amended the senior secured credit facility, increasing the amount of the revolving credit facility by an aggregate principal amount of $150.0 million to $250.0 million. The term loan bears interest at LIBOR plus a margin of 1.5%, or the base rate plus a margin of 0.50%, and matures on July 21, 2013. The revolving credit facility bears interest at LIBOR plus a margin of 1.25%, or the base rate plus a margin of 0.25%, and is available until July 21, 2012. On March 31, 2009 and December 31, 2008, the weighted average interest rate for the senior secured credit facility was 2.20% and 3.04%, respectively.

The senior secured credit facility requires the Company to comply with a leverage ratio and an interest coverage ratio. In addition, the senior secured credit facility contains customary covenants, including covenants that limit or restrict the Company's ability to incur liens, incur indebtedness, make investments, dispose of assets, make certain restricted payments, merge or consolidate and enter into certain transactions with affiliates.

As of March 31, 2009, the Company is obligated to pay approximately $0.4 million of the term loan every quarter until June 30, 2013, and the remaining principal on July 21, 2013. As of March 31, 2009 and December 31, 2008, the amounts outstanding under the term loan were $146.5 million and $146.8 million, respectively.

During the first quarter of 2009, the Company borrowed an additional $19.0 million under the revolving credit facility and paid $14.7 million of the revolving credit facility. As of March 31, 2009 and December 31, 2008, the amounts outstanding under the revolving credit facility were $182.0 million and $177.7 million, respectively.

Through the course of conducting regular business operations, certain vendors and government agencies may require letters of credit to be issued. As of March 31, 2009 and December 31, 2008, the Company had $2.6 million and $2.8 million, respectively, of issued but undrawn letters of credit.

4. Contingencies

The Company is from time to time engaged in routine litigation. The Company regularly reviews all pending litigation matters in which it is involved and establishes reserves deemed appropriate by management for these litigation matters when a probable loss estimate can be made.

As a marketer of dietary and nutritional supplements and other products that are ingested by consumers or applied to their bodies, the Company has been and is currently subjected to various product liability claims. The effects of these claims to date have not been material to the Company, and the reasonably possible range of exposure on currently existing claims is not material to the Company. The Company believes that it has meritorious defenses to the allegations contained in the lawsuits. The Company currently maintains product liability insurance with an annual deductible of $10 million.

Certain of the Company's subsidiaries have been subject to tax audits by governmental authorities in their respective countries. In certain of these tax audits, governmental authorities are proposing that significant amounts of additional taxes and related interest and penalties are due. The Company and its tax advisors believe that there are substantial defenses to their allegations that additional taxes are owed, and the Company is vigorously contesting the additional proposed taxes and related charges.

These matters may take several years to resolve, and the Company cannot be sure of their ultimate resolution. However, it is the opinion of management that adverse outcomes, if any, will not likely result in a material adverse effect on the Company's financial condition and operating results. This opinion is based on the belief that any losses suffered in excess of amounts reserved would not be material, and that the Company has meritorious defenses. Although the Company has reserved an amount that the Company believes represents the most likely outcome of the resolution of these disputes, if the Company is incorrect in the assessment the Company may have to record additional expenses.

HERBALIFE LTD.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

5. Comprehensive Income

Total comprehensive income consisted of the following:

	Three Months Ended	
	March 31, 2009	March 31, 2008
	(In millions)	
Net income	$ 41.5	$ 62.4
Unrealized gain/(loss) on derivative instruments, net of tax	2.0	(0.9)
Foreign currency translation adjustment	(10.7)	1.0
Comprehensive income	$ 32.8	$ 62.5

6. Segment Information

The Company is a network marketing company that sells a wide range of weight management products, nutritional supplements and personal care products within one industry segment as defined under SFAS No. 131, *Disclosures about Segments of an Enterprise and Related Information*. The Company's products are manufactured by third party providers and then sold to independent distributors who sell Herbalife products to retail consumers or other distributors.

The Company sells products in 70 countries throughout the world and is organized and managed by geographic regions. The Company aggregates its operating segments, excluding China, into one reporting segment as management believes that the Company's operating segments have similar operating characteristics and similar long term operating performance. In making this determination, management believes that the operating segments are similar in the nature of the products sold, the product acquisition process, the types of customers to whom products are sold, the methods used to distribute the products, and the nature of the regulatory environment. China has been identified as a separate reportable segment as it does not meet the criteria for aggregation.

Revenues reflect sales of products to distributors based on the distributors' geographic location.

HERBALIFE LTD.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

During the first quarter of 2009, the Company changed its geographic regions as part of the Company's restructuring program by designating Mexico as its own region and combining South America and Central America into one region. These changes in geographic regions were implemented to create growth opportunities for distributors, support faster decision making across the organization by reducing the number of layers of management, improve the sharing of ideas and tools and accelerate growth in its high potential markets. Historical information presented related to the Company's geographic regions has been reclassified to conform with the current geographic presentation. The operating information for the Company's reporting segment and China, and sales by product line are as follows:

	Three Months Ended March 31,	
	2009	2008
	(In millions)	
Net Sales:		
United States	$ 119.1	$ 114.0
Mexico	59.2	93.6
China	26.8	24.5
Others	316.6	372.3
Total Net Sales	$ 521.7	$ 604.4
Operating Margin(1):		
United States	$ 57.0	$ 47.2
Mexico	26.3	38.8
China	22.6	22.4
Others	137.8	165.7
Total Operating Margin	$ 243.7	$ 274.1
Selling, general and administrative expense	181.5	184.4
Interest expense, net	1.7	3.8
Income before income taxes	60.5	85.9
Income taxes	19.0	23.5
Net Income	$ 41.5	$ 62.4

	Three Months Ended March 31,	
	2009	2008
	(In millions)	
Net sales by product line:		
Weight Management	$ 329.2	$ 380.8
Targeted Nutrition	110.0	125.6
Energy, Sports & Fitness	21.6	24.0
Outer Nutrition	31.5	40.2
Literature, Promotional and Other(2)	29.4	33.8
Total Net Sales	$ 521.7	$ 604.4
Net sales by geographic region:		
North America(3)	$ 123.1	$ 118.6
Mexico	59.2	93.6
South and Central America	75.3	106.0
EMEA(4)	123.3	158.0
Asia Pacific(5)	114.0	103.7
China	26.8	24.5
Total Net Sales	$ 521.7	$ 604.4

(1) Operating margin consists of net sales less cost of sales and royalty overrides.

(2) Product buybacks and returns in all product categories are included in the literature, promotional and other category.

(3) Consists of the U.S., Canada and Jamaica.

(4) Consists of Europe, Middle East and Africa.

(5) Consists of Asia (excluding China), New Zealand and Australia.

As of March 31, 2009 and December 31, 2008, total assets for the Company's reporting segment, excluding China, was $1,096.1 million and $1,074.3 million, respectively. Total assets for China were $44.4 million and $47.0 million as of March 31, 2009 and December 31, 2008, respectively.

7. Stock Based Compensation

The Company has five stock-based compensation plans, which are more fully described in Note 9 to the Consolidated Financial Statements in the 2008 10-K. During the three months ended March 31, 2009, the Company granted stock awards subject to continued service, consisting of stock units and stock appreciation rights, with vesting terms fully described in the 2008 10-K. During the three months ended March 31, 2009, the Company also granted stock units and stock appreciation rights, subject to continued service, one-third of which vest on the third anniversary of the date of grant, one-third of which vest on the fourth anniversary of the date of grant, and the remaining one-third of which vest on the fifth anniversary of the date of grant.

For the three months ended March 31, 2009 and 2008, stock-based compensation expense amounted to $4.9 million and $5.1 million, respectively. As of March 31, 2009, the total unrecognized compensation cost related to all non-vested stock awards was $48.7 million and the related weighted-average period over which it is expected to be recognized is approximately 2.5 years.

The following tables summarize the activity under all stock-based compensation plans for the three months ended March 31, 2009:

Stock Options & SARS	Shares (In thousands)	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value (In millions)
Outstanding at December 31, 2008	6,967	$ 26.32	6.2 years	$ 27.6
Granted	1,460	13.62		
Exercised	(63)	3.53		
Forfeited	(127)	29.03		
Outstanding at March 31, 2009	8,237	$ 24.20	6.6 years	$ 9.4
Exercisable at March 31, 2009	4,125	$ 19.00	5.2 years	$ 7.4

Incentive Plan and Independent Directors Stock Units	Shares (In thousands)	Weighted Average Grant Date Fair Value	Aggregate Fair Value (In millions)
Outstanding and nonvested at December 31, 2008	476.3	$ 43.41	$ 20.7
Granted	411.0	13.64	5.6
Vested	(125.4)	43.30	(5.4)
Cancelled	(11.0)	41.61	(0.5)
Outstanding and nonvested at March 31, 2009	750.9	$ 27.18	$ 20.4

The weighted-average grant date fair value of stock awards granted during the three months ended March 31, 2009 and 2008 was $5.85 and $21.58, respectively. The total intrinsic value of stock awards exercised during the three months ended March 31, 2009 and 2008 was $1.2 million and $32.9 million, respectively.

8. Income Taxes

As of March 31, 2009, the total amount of unrecognized tax benefits, related interest and penalties was $41.1 million, $8.7 million and $3.2 million, respectively. During the three months ended March 31, 2009, the Company recorded tax and interest related to uncertain tax positions of $0.1 million and $0.2 million, respectively. The unrecognized tax benefits relate primarily to uncertainties from international transfer pricing issues and the deductibility of certain operating expenses in various jurisdictions. If the total amount of unrecognized tax benefits were recognized, $41.1 million of unrecognized tax benefits, $8.7 million of interest and $3.2 million of penalties, would impact the effective tax rate.

During the three months ended March 31, 2009, the Company benefited from the terms of a tax holiday in the People's Republic of China. The tax holiday commenced on January 1, 2008 and will conclude on December 31, 2012. Under the terms of the holiday, the Company is subject to a zero tax rate in China during 2008 and 2009 and a concessionary tax rate in China for the remaining years included in the holiday period.

9. Derivative Instruments and Hedging Activities

Interest Rate Risk Management

The Company engages in an interest rate hedging strategy for which the hedged transactions are forecasted interest payments on the Company's variable rate term loan. The hedged risk is the variability of forecasted interest rate cash flows, where the hedging strategy involves the purchase of interest rate swaps. For the outstanding cash flow hedges on interest rate exposures at March 31, 2009 the maximum length of time over which the Company is hedging these exposures is approximately six months.

Under its senior secured credit facility, the Company is obligated to enter into interest rate hedges for up to 25% of the aggregate principal amount of the term loan for a minimum of three years. On August 23, 2006, the Company entered into an interest rate swap agreement. The agreement provides for the Company to pay interest for a three-year period at a fixed rate of 5.26% on various notional amounts while receiving interest for the same period at the LIBOR rate on the same notional principal amounts. The swap has been designated as a cash flow hedge against the variability in LIBOR interest rate on the new term loan at LIBOR plus 1.50%, thereby fixing the Company's effective rate on the notional amounts at 6.76%. The Company formally assesses, both at inception and at least quarterly thereafter, whether the derivatives used in hedging transactions are effective in offsetting changes in cash flows of the hedged item. As of March 31, 2009 and December 31, 2008, the hedge relationship qualified as an effective hedge under SFAS No. 133. Consequently, all changes in the fair value of the derivative are deferred and recorded in other comprehensive income (loss) until the related forecasted transaction is recognized in the consolidated statements of income. The fair value of the interest rate swap agreement is based on third-party bank quotes and the Company recorded the interest rate swap as a liability at fair value of $0.6 million and $1.0 million as of March 31, 2009 and December 31, 2008, respectively.

Foreign Currency Instruments

The Company also designates certain derivatives, such as certain foreign currency forward and option contracts, as freestanding derivatives for which hedge accounting does not apply. The changes in the fair market value of the derivatives are included in selling, general and administrative expenses in the Company's consolidated statements of income. The Company uses foreign currency forward contracts to hedge foreign-currency-denominated intercompany transactions and to partially mitigate the impact of foreign currency fluctuations. The Company also uses foreign currency option contracts to partially mitigate the impact of foreign currency fluctuations. The fair value of the forward and option contracts are based on third-party bank quotes. As of March 31, 2009, all of the Company's outstanding foreign currency forward contracts have maturity dates of less

than one year, with the majority maturing within 90 days. There were no foreign currency option contracts outstanding as of March 31, 2009. See Part I, Item 3 — *Quantitative and Qualitative Disclosures About Market Risk* in this Quarterly Report on Form 10-Q for foreign currency instruments outstanding as of March 31, 2009.

The Company also purchases forward contracts in order to hedge forecasted inventory purchases that are designated as cash-flow hedges and are subject to foreign currency exposures. The Company applied the hedge accounting rules as required by SFAS 133 for these hedges. These contracts allow the Company to sell Euros in exchange for US dollars at specified contract rates. As of March 31, 2009, approximately $36.0 million of these contracts were outstanding and are expected to mature over the next nine months. The Company's derivative financial instruments are recorded on the consolidated balance sheet at fair value based on quoted market rates. These forward contracts are used to hedge forecasted inventory purchases over specific months. Changes in the fair value of forward contracts, excluding forward points, designated as cash-flow hedges are recorded in other comprehensive income (loss), and are recognized in cost of sales in the period which approximates the time the hedged inventory is sold. As of March 31, 2009 and December 31, 2008, the Company recorded an asset at fair value of $1.5 million and a liability of $0.1 million, respectively, relating to outstanding contracts. The Company assesses hedge effectiveness and measures hedge ineffectiveness at least quarterly. During the three months ended March 31, 2009, the ineffective portion relating to these hedges was immaterial and the hedges remained effective as of March 31, 2009.

Gains and Losses on Derivative Instruments

The following gains (losses) relating to derivative instruments were recorded in other comprehensive income (loss) during the three months ended March 31, 2009:

	Amount of Gain or (Loss) Recognized in Other Comprehensive Income (Loss)
	(In millions)
Derivatives designated as hedging instruments:	
Foreign exchange contracts	$ 2.4
Interest rate contracts	—

The following gains (losses) relating to derivative instruments were recorded to income during the three months ended March 31, 2009:

	Amount of Gain or (Loss) Recognized in Income	Location of Gain or (Loss) Recognized in Income
	(In millions)	
Derivatives designated as hedging instruments:		
Foreign exchange contracts(1)	$ (0.2)	Selling, general and administrative expenses
Derivatives not designated as hedging instruments:		
Foreign exchange contracts	$ (0.3)	Selling, general and administrative expenses

(1) For foreign exchange contracts designated as hedging instruments, the $0.2 million losses recognized in income represents the amounts excluded from the assessment of hedge effectiveness. There were no ineffective amounts reported for derivatives designated as hedging instruments.

The following gains (losses) relating to derivative instruments were reclassified from accumulated other comprehensive loss into income during the three months ended March 31, 2009:

	Amount of Gain or (Loss) Reclassified from Accumulated Other Comprehensive Income (Loss) into Income	Location of Gain or (Loss) Reclassified from Accumulated Other Comprehensive Income (Loss) into Income (Effective Portion)
	(In millions)	
Derivatives designated as hedging instruments:		
Foreign exchange contracts	$ —	Cost of sales
Interest rate contracts	$ (0.4)	Interest expense, net

SFAS 133 requires companies to recognize all derivative instruments as either assets or liabilities at fair value in the statement of financial position. See Note 13, *Fair Value Measurements,* for information on derivative fair values in the Company's consolidated balance sheet as of March 31, 2009.

10. Restructuring Reserve

The Company recorded $0.6 million and $0.4 million of professional fees, severance and related costs for the three months ended March 31, 2009 and 2008, respectively, related to restructurings. All such amounts were included in selling, general and administrative expenses. The Company expects to complete in 2009 the restructuring program initiated in the fourth quarter of 2008.

The following table summarizes the components of this reserve as of March 31, 2009:

	Severance	Retention Benefits	Others	Total
		(In millions)		
Balance as of December 31, 2008	$ 3.3	$ —	$ —	$ 3.3
Charges	0.5	—	0.1	0.6
Cash payments	(2.6)	—	(0.1)	(2.7)
Balance as of March 31, 2009	$ 1.2	$ —	$ —	$ 1.2

11. Shareholders' Equity

Dividends

On February 20, 2009, the Company's board of directors approved a quarterly cash dividend of $0.20 per common share in an aggregate amount of $12.3 million, for the fourth quarter of 2008 that was paid to shareholders of record on March 17, 2009. The aggregate amount of dividends declared and paid during the three months ended March 31, 2009 and 2008 were $12.3 million and $12.9 million, respectively.

Share Repurchases

During the three months ended March 31, 2009, the Company did not repurchase any of its common shares. As of March 31, 2009, since the inception of the share repurchase program, the Company has repurchased approximately 13.7 million of its common shares at an aggregate cost of $502.8 million or an average cost of $36.76 per share. As of March 31, 2009, the approximate dollar value of shares that could be purchased under the Company's share repurchase program was approximately $97.2 million. The Company's share repurchase program in effect on March 31, 2009 expired on April 17, 2009 pursuant to its terms.

12. Earnings Per Share

Basic earnings per share represents net income for the period common shares were outstanding, divided by the weighted average number of common shares outstanding for the period. Diluted earnings per share represents net

income divided by the weighted average number of common shares outstanding, inclusive of the effect of dilutive securities such as outstanding stock options, stock appreciation rights, stock units and warrants.

The following are the common share amounts used to compute the basic and diluted earnings per share for each period:

	For the Three Months Ended March 31,	
	2009	2008
	(In thousands)	
Weighted average shares used in basic computations	61,510	64,381
Dilutive effect of exercise of equity grants outstanding	61	2,497
Dilutive effect of warrants	43	322
Weighted average shares used in diluted computations	61,614	67,200

Equity grants, such as stock options, stock appreciation rights, or stock units, to purchase or acquire 3.7 million and 1.5 million common shares were outstanding during the three months ended March 31, 2009 and 2008, respectively, but were not included in the computation of diluted earnings per share because the exercise prices were greater than the average market price of a common share and therefore such equity grants would be anti-dilutive.

13. Fair Value Measurements

The Company currently applies the provisions of SFAS 157 for its financial and non-financial assets and liabilities. SFAS 157 defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. SFAS 157 establishes a fair value hierarchy, which prioritizes the inputs used in measuring fair value into three broad levels as follows:

Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that the reporting entity has the ability to access at the measurement date.

Level 2 inputs include quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active, inputs other than quoted prices that are observable for the asset or liability and inputs that are derived principally from or corroborated by observable market data by correlation or other means.

Level 3 inputs are unobservable inputs for the asset or liability.

The Company measures certain assets and liabilities at fair value consisting of derivative instruments. All derivative assets are recorded as prepaid expenses and other current assets, and all derivative liabilities are recorded as accrued expenses. Assets or liabilities that have recurring measurements are shown below:

Fair Value Measurements at Reporting Date Using

Description	Balance Sheet Location	March 31, 2009	Quoted Prices in Active Markets for Identical Assets/Liabilities (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
			(In millions)		
Assets:					
Derivatives designated as cash flow hedging instruments:					
Foreign currency forward contracts	Prepaid expenses and other current assets	$ 1.5	$ —	$ 1.5	$ —

HERBALIFE LTD.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Description	Balance Sheet Location	March 31, 2009	Quoted Prices in Active Markets for Identical Assets/Liabilities (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
			(In millions)		
Total assets		$ 1.5	$ —	$ 1.5	$ —
Liabilities:					
Derivatives designated as cash flow hedging instruments:					
Interest rate swap	Accrued expenses	$ 0.6	$ —	$ 0.6	$ —
Derivatives not designated as hedging instruments:					
Foreign currency forward contracts	Accrued expenses	1.3	—	1.3	—
Total liabilities		$ 1.9	$ —	$ 1.9	$ —

14. Subsequent Event

On April 30, 2009, the Company announced that its board of directors has authorized a $0.20 per common share cash dividend for the first quarter of 2009, payable on June 5, 2009 to shareholders of record on May 22, 2009.

The Company's share repurchase program in effect on March 31, 2009 expired on April 17, 2009 pursuant to its terms. On April 30, 2009, the Company announced that its board of directors authorized a new program for the Company to repurchase up to $300 million of Herbalife common shares during the next two years, at such times and prices as determined by the Company's management.

Item 2. ***Management's Discussion and Analysis of Financial Condition and Results of Operations***

Overview

We are a global network marketing company that sells weight management products, nutritional supplements, energy, sports & fitness products and personal care products. We pursue our mission of "changing people's lives" by providing a financially rewarding business opportunity to distributors and quality products to distributors and their customers who seek a healthy lifestyle. We are one of the largest network marketing companies in the world with net sales of approximately $2.4 billion for the year ended December 31, 2008. As of March 31, 2009, we sold our products in 70 countries through a network of over 1.9 million independent distributors. In China, we sell our products through retail stores and an employed sales force. We believe the quality of our products and the effectiveness of our distribution network, coupled with geographic expansion, have been the primary reasons for our success throughout our 29-year operating history.

Our products are grouped in four principal categories: weight management, targeted nutrition, energy, sports & fitness and Outer Nutrition. Our products are often sold in programs that are comprised of a series of related products designed to simplify weight management and nutrition for consumers and maximize our distributors' cross-selling opportunities.

Industry-wide factors that affect us and our competitors include the increasing prevalence of obesity and the aging of the worldwide population, which are driving demand for nutrition and wellness-related products and the recruitment and retention of distributors.

While we are closely monitoring the current global economic crisis, the Company remains focused on the opportunities and challenges in retailing of our products, recruiting and retaining distributors, improving distributor productivity, opening new markets, further penetrating existing markets including China, the U.S., Brazil, Mexico and Russia, globalizing successful distributor methods of operation such as Nutrition Clubs, introducing new products, developing niche market segments and further investing in our infrastructure. Management remains intently focused on the Venezuela market and especially the limited ability to repatriate cash at the official exchange rate.

During the first quarter of 2009, we changed our geographic regions, designating Mexico as its own region and combining South America and Central America into a single region. These changes in geographic regions were implemented to create growth opportunities for distributors, support faster decision making across the organization by reducing the number of layers of management, improve the sharing of ideas and tools and accelerate growth in high potential markets. Under the new geographic regions, we report revenue from:

- North America, which consists of the U.S., Canada and Jamaica;
- Mexico;
- South and Central America;
- EMEA, which consists of Europe, the Middle East and Africa;
- Asia Pacific, which consists of Asia (excluding China), New Zealand and Australia; and
- China.

Historical information presented in this Quarterly Report on Form 10-Q relating to our geographic regions has been reclassified to conform with our current geographic presentation

Volume Points by Geographic Region

A key non-financial measure we focus on is Volume Points on a Royalty Basis, or Volume Points, which is essentially our weighted unit measure of product sales volume. It is a useful measure that we rely on as it excludes the impact of foreign currency fluctuations and ignores the differences generated by varying retail pricing across geographic markets. The Volume Point measure, in the aggregate and in each region, can be a measure of our sales volume as well as of sales volume trends. In general, an increase in Volume Points in a particular geographic region

or country indicates an increase in our sales volume which results in an increase in our local currency net sales and a decrease in Volume Points in a particular geographic region or country indicates a decrease in our sales volume, which results in decreasing local currency net sales.

	Three Months Ended March 31,		
	2009	2008	% Change
	(Volume points in millions)		
North America	186.5	178.1	4.7%
Mexico	120.4	148.1	(18.7)%
South and Central America	102.6	118.9	(13.7)%
EMEA	124.1	137.1	(9.5)%
Asia Pacific	145.0	106.3	36.4%
China	20.8	20.7	0.5%
Worldwide	699.4	709.2	(1.4)%

Number of New Sales Leaders by Geographic Region during the Reporting Period

Another key non-financial measure on which we focus is the number of distributors qualified as new sales leaders under our compensation system. Excluding China, distributors qualify for supervisor status based on their Volume Points. The changes in the total number of sales leaders or changes in the productivity of sales leaders may cause Volume Points to increase or decrease. The fluctuation in the number of new sales leaders is a general indicator of the level of distributor recruitment.

	Three Months Ended March 31,		
	2009	2008	% Change
North America	7,893	9,010	(12.4)%
Mexico	4,351	7,355	(40.8)%
South and Central America	7,715	12,780	(39.6)%
EMEA	5,236	6,533	(19.9)%
Asia Pacific (excluding China)	10,737	8,777	22.3%
Total New Supervisors	35,932	44,455	(19.2)%
New China Sales Employees	4,327	4,350	(0.5)%
Worldwide Total New Sales Leaders	40,259	48,805	(17.5)%

Number of Supervisors and Retention Rates by Geographic Region as of Re-qualification Period

Our compensation system requires each supervisor to re-qualify for such status each year, prior to February, in order to maintain their 50% discount on product and be eligible to receive royalty payments. In February of each year, we demote from the rank of supervisor those distributors who did not satisfy the supervisor re-qualification requirements during the preceding twelve months. The re-qualification requirement does not apply to new supervisors (i.e. those who became supervisors subsequent to the January re-qualification of the prior year).

Supervisor Statistics (Excluding China)	2009	2008
	(In thousands)	
January 1 total supervisors	456.9	451.6
January & February new supervisors	20.6	28.6
Demoted supervisors (did not re-qualify)	(181.4)	(167.7)
Other supervisors (resigned, etc)	(1.4)	(2.8)
End of February total supervisors	294.7	309.7

The distributor statistics below further highlight the calculation for retention.

Supervisor Retention (Excluding China)	2009	2008
	(In thousands)	
Supervisors needed to re-qualify	304.0	284.0
Demoted supervisors (did not re-qualify)	(181.4)	(167.7)
Total re-qualified	122.6	116.3
Retention rate	40.3%	41.0%

The table below reflects the number of sales leaders as of February (subsequent to the annual re-qualification date) and supervisor retention rate by year and by region.

	Number of Sales Leaders		Supervisors Retention Rate	
	2009	2008	2009	2008
North America	63,726	64,383	42.2%	43.5%
Mexico	50,099	60,685	45.2%	44.4%
South and Central America	67,876	67,808	32.2%	34.7%
EMEA	53,371	59,446	48.7%	46.6%
Asia Pacific (excluding China)	59,631	57,355	35.1%	34.3%
Total Supervisors	294,703	309,677	40.3%	41.0%
China Sales Employees	29,684	25,294		
Worldwide Total Sales Leaders	324,387	334,971		

The number of supervisors by geographic region as of the quarterly reporting dates will normally be higher than the number of supervisors by geographic region as of the re-qualification period because supervisors who do not re-qualify during the relevant twelve-month period will be dropped from the rank of supervisor the following February. Since supervisors purchase most of our products for resale to other distributors and consumers, comparisons of supervisor totals on a year-to-year basis are good indicators of our recruitment and retention efforts in different geographic regions.

The value of the average monthly purchase of Herbalife products by our sales leaders has remained relatively constant over time. Consequently, increases in our sales are driven primarily by our retention of supervisors and by our recruitment and retention of distributors, rather than through increases in the productivity of our overall supervisor base.

We provide distributors with products, support materials, training, special events and a competitive compensation program. If a distributor wants to pursue the Herbalife business opportunity, the distributor is responsible for growing his or her business and personally pays for the sales activities related to attracting new customers and recruiting distributors by hosting events such as Herbalife Opportunity Meetings or Success Training Seminars; by advertising Herbalife's products; by purchasing and using promotional materials such as t-shirts, buttons and caps; by utilizing and paying for direct mail and print material such as brochures, flyers, catalogs, business cards, posters and banners and telephone book listings; by purchasing inventory for sale or use as samples; and by training, mentoring and following up (in person or via the phone or internet) with customers and recruits on how to use Herbalife products and/or pursue the Herbalife business opportunity.

Presentation

"Retail sales" represent the gross sales amounts on our invoices to distributors before distributor allowances, as defined below, and "net sales," which reflect distribution allowances and handling and freight income, represent what we collect and recognize as net sales in our financial statements. We discuss retail sales because of its fundamental role in our compensation systems, internal controls and operations, including its role as the basis upon which distributor discounts, royalties and bonuses are awarded. In addition, it is used as the basis for certain

information included in daily and monthly reports reviewed by our management. However, such a measure is not in accordance with Generally Accepted Accounting Principles in the U.S., or GAAP. You should not consider retail sales in isolation from, nor as a substitute for, net sales and other consolidated income or cash flow statement data prepared in accordance with GAAP, or as a measure of profitability or liquidity. A reconciliation of net sales to retail sales is presented below under "Results of Operations." "Product sales" represent the actual product purchase price paid to us by our distributors, after giving effect to distributor discounts referred to as "distributor allowances," which approximate 50% of retail sales prices. Distributor allowances as a percentage of retail sales may vary by country depending upon regulatory restrictions that limit or otherwise restrict distributor allowances.

Our *"gross profit"* consists of net sales less "cost of sales," which represents the prices we pay to our raw material suppliers and manufacturers of our products as well as costs related to product shipments, duties and tariffs, freight expenses relating to shipment of products to distributors and importers and similar expenses.

"Royalty overrides" are our most significant expense and consist of:

- royalty overrides and production bonuses which total approximately 15% and 7%, respectively, of the retail sales of weight management, targeted nutrition, energy, sports & fitness, Outer Nutrition and promotional products;
- the Mark Hughes bonus payable to some of our most senior distributors in the aggregate amount of up to 1% of retail sales of weight management, targeted nutrition, energy, sports & fitness and Outer Nutrition; and
- other discretionary incentive cash bonuses to qualifying distributors.

Royalty overrides are generally earned based on retail sales and approximate in the aggregate about 21% of retail sales or approximately 34% of our net sales. Royalty overrides together with distributor allowances represent the potential earnings to distributors of up to approximately 73% of retail sales. The compensation to distributors is generally for the development, retention and improved productivity of their distributor sales organizations and is paid to several levels of distributors on each sale. Due to restrictions on direct selling in China, our full-time employed sales representatives in China are compensated with wages, bonuses and benefits instead of the distributor allowances and royalty overrides utilized in our traditional marketing program used in our other five regions. Because of local country regulatory constraints, we may be required to modify our typical distributor incentive plans as described above. Consequently, the total distributor discount percentage may vary over time. We also offer reduced distributor allowances and pay reduced royalty overrides with respect to certain products worldwide.

Our *"operating margins"* consist of net sales less cost of sales and royalty overrides.

"Selling, general and administrative expenses" represent our operating expenses, components of which include labor and benefits, sales events, professional fees, travel and entertainment, distributor marketing, occupancy costs, communication costs, bank fees, depreciation and amortization, foreign exchange gains and losses and other miscellaneous operating expenses.

Most of our sales to distributors outside the United States are made in the respective local currencies. In preparing our financial statements, we translate revenues into U.S. dollars using average exchange rates. Additionally, the majority of our purchases from our suppliers generally are made in U.S. dollars. Consequently, a strengthening of the U.S. dollar versus a foreign currency can have a negative impact on our reported sales and operating margins and can generate transaction losses on intercompany transactions. Throughout the last five years, foreign currency exchange rates have fluctuated significantly. From time to time, we enter into foreign exchange forward and option contracts to mitigate our foreign currency exchange risk as discussed in further detail in Part I, Item 3 — *Quantitative and Qualitative Disclosures about Market Risk.*

Summary Financial Results

Net sales for the three months ended March 31, 2009 decreased 13.7% to $521.7 million compared to the same period in 2008, primarily reflecting the adverse effect of currency fluctuations which had an adverse impact of 12.8% or $77.2 million. In local currency, net sales declined 0.9% compared to the same period in 2008. For the three months ended March 31, 2009 net sales in some of our top countries including Mexico, Venezuela, Japan and

Brazil decreased 36.8%, 30.7%, 28.0% and 7.6%, respectively, as compared to the same period in 2008, while other top countries including Taiwan, the U.S. and China increased 41.7%, 4.5% and 9.4%, respectively, as compared to the same period in 2008. A decline in distributor and sales leader recruiting and the negative impact of the Value Added Tax, or VAT, in Mexico and 2008 price increases in Venezuela also contributed to the decline in net sales for the period. The increase in other top markets was mainly due to the continued success of our distributors as they continued their conversion to a daily consumption business model and an increase in the number of sales employees in China compared to the prior year period.

Net income for the three months ended March 31, 2009 decreased 33.4% to $41.5 million, or $0.67 per diluted share, compared to $62.4 million, or $0.93 per diluted share, for the same period in 2008. The decrease was driven by revenue declines, higher effective tax rate reflecting changes in country mix, higher depreciation expense and foreign currency losses, partially offset by lower interest expense, lower labor costs resulting from our restructuring initiative and lower sales events costs. Net income for the three months ended March 31, 2009 included a $0.4 million unfavorable after tax impact in connection with our restructuring activities.

Results of Operations

Our results of operations for the periods described below are not necessarily indicative of results of operations for future periods, which depend upon numerous factors, including our ability to recruit new distributors and retain existing distributors, open new markets, further penetrate existing markets, introduce new products and programs that will help our distributors increase their retail efforts and develop niche market segments.

The following table sets forth selected results of our operations expressed as a percentage of net sales for the periods indicated.

	Three Months Ended March 31, 2009	Three Months Ended March 31, 2008
Operations:		
Net sales	100.0%	100.0%
Cost of sales	19.6	19.5
Gross profit	80.4	80.5
Royalty overrides(1)	33.7	35.2
Selling, general and administrative expenses(1)	34.8	30.5
Operating income	11.9	14.8
Interest expense, net	0.3	0.6
Income before income taxes	11.6	14.2
Income taxes	3.6	3.9
Net income	8.0%	10.3%

(1) Compensation to our China sales employees is included in selling, general and administrative expenses while distributor compensation for all other countries is included in royalty overrides.

Net Sales

The following chart reconciles retail sales to net sales:

Sales by Geographic Region

	Three Months Ended March 31,									
	2009					2008				
	Retail Sales	Distributor Allowance	Product Sales	Handling & Freight Income	Net Sales	Retail Sales	Distributor Allowance	Product Sales	Handling & Freight Income	Net Sales	Change in Net Sales
	(Dollars in millions)										
North America	$ 196.6	$ (93.7)	$ 102.9	$ 20.2	$ 123.1	$ 189.5	$ (90.2)	$ 99.3	$ 19.3	$ 118.6	3.8%
Mexico	97.8	(47.7)	50.1	9.1	59.2	156.7	(76.5)	80.2	13.4	93.6	(36.8)%
South and Central America	124.3	(59.9)	64.4	10.9	75.3	191.7	(98.7)	93.0	13.0	106.0	(29.0)%
EMEA	199.9	(96.8)	103.1	20.2	123.3	257.0	(124.2)	132.8	25.2	158.0	(22.0)%
Asia Pacific	189.3	(89.7)	99.6	14.4	114.0	171.7	(80.8)	90.9	12.8	103.7	9.9%
China	29.0	(2.2)	26.8	—	26.8	27.2	(2.7)	24.5	—	24.5	9.4%
Worldwide	$ 836.9	$ (390.0)	$ 446.9	$ 74.8	$ 521.7	$ 993.8	$ (473.1)	$ 520.7	$ 83.7	$ 604.4	(13.7)%

Changes in net sales are directly associated with the recruiting and retention of our distributor force, retailing of our products, the quality and completeness of our product offerings that the distributor force has to sell and the number of countries in which we operate. Management's role, both in-country and at the corporate level is to provide distributors with a competitive and broad product line, encourage strong teamwork and leadership among the Chairman's Club and President's Team distributors and offer leading edge business tools to make doing business with Herbalife simple. Management uses the distributor marketing program coupled with educational and motivational tools and promotions to incentivize distributors to increase recruiting, retention and retailing, which in turn affect net sales. Such tools include Company sponsored sales events such as Extravaganzas and World Team Schools where large groups of distributors gather, thus allowing them to network with other distributors, learn recruiting, retention and retailing techniques from our leading distributors and become more familiar with how to market and sell our products and business opportunities. Accordingly, management believes that these development and motivation programs increase the productivity of the supervisor network. The expenses for such programs are included in selling, general and administrative expenses. Sales are driven by several factors, including the number and productivity of distributors and sales leaders who continually build, educate and motivate their respective distribution and sales organizations. We also use event and non-event product promotions to motivate distributors to increase recruiting, retention and retailing activities. These promotions have prizes ranging from qualifying for events to product prizes and vacations. The costs of these promotions are included in selling, general and administrative expenses.

The factors described above have helped distributors increase their business, which in turn helps drive sales in our business. The discussion below of net sales by geographic region further details some of the specific drivers of growth of our business and causes of sales reductions during the three months ended March 31, 2009, as well as the unique growth or contraction factors specific to certain geographic regions or major countries. We believe that the correct business foundation, coupled with ongoing training and promotional initiatives, is required to increase recruiting and retention of distributors and retailing our products. The correct business foundation includes strong country management that works closely with the distributor leadership, unified distributor leadership, a broad product line that appeals to local consumer needs, a favorable regulatory environment, a scalable and stable technology platform and an attractive distributor marketing plan. Initiatives, such as Success Training Seminars, World Team Schools, Promotional Events and regional Extravaganzas are integral components of developing a highly motivated and educated distributor sales organization that will work toward increasing the recruitment and retention of distributors.

Our strategy will continue to include creating and maintaining growth within existing markets, while expanding into new markets. In addition, new ideas and Daily Method of Operations, or DMOs, are being generated in our regional markets and globalized where applicable, either by distributors, country management or

corporate management. Examples of DMOs include the Club concept in Mexico, the Total Plan in Brazil, the Wellness Coach in France, and the Internet/Sampling and Weight Loss Challenge in the U.S. Management's strategy is to review the applicability of expanding successful country initiatives throughout a region, and where appropriate, financially support the globalization of these initiatives.

North America

The North America region reported net sales of $123.1 million for the three months ended March 31, 2009. Net sales increased $4.5 million, or 3.8%, for the three months ended March 31, 2009, as compared to the same period in 2008. In local currency, net sales increased by 4.4% for the three months ended March 31, 2009, as compared to the same period in 2008. The overall increase was a result of net sales growth in the U.S. of $5.1 million, or 4.5%, for the three months ended March 31, 2009, as compared to the same period in 2008.

The increase in net sales in North America was primarily due to the continued success of our distributors converting their business focus toward a daily consumption business model, especially the Nutrition Club DMO, and its extension into Commercial Clubs and Central Clubs, along with the recent development of the Weight Loss Challenge DMO. In terms of volume, the mix of business in the U.S. was 63% Spanish speaking and 37% Non-Spanish speaking for the three months ended March 31, 2009.

In January 2009, the U.S. hosted a "Why Herbalife, Why Now?" tour in seven cities featuring our Chief Executive Officer, or CEO, Michael O. Johnson. In total over 14,500 distributors attended the tour.

New supervisors in the region decreased 12.4% for the three months ended Mach 31, 2009, as compared to the same period in 2008. Total supervisors in the region decreased 1.0%. New supervisors in the U.S. decreased 12.6% for the three months ended March 31, 2009, as compared to the same period in 2008.

In March 2009, Herbalife hosted its annual global Herbalife Honors event in Los Angeles, where President Team members from around the world met and shared best practices, conducted leadership training and Herbalife management awarded distributors $36.4 million in Mark Hughes bonus payments related to 2008 performance.

We believe the fiscal year 2009 net sales in North America should increase year over year primarily as a result of the successful transformation of our distributor business focus to a daily consumption model as well as a 5% price increase which was instituted in the U.S. during February 2009.

Mexico

Net sales in Mexico were $59.2 million for the three months ended March 31, 2009. Net sales for the three months ended March 31, 2009 decreased $34.4 million, or 36.8%, as compared to the same period in 2008. In local currency, net sales for the three months ended March 31, 2009 decreased by 15.9%, as compared to the same period in 2008. The fluctuation of foreign currency rates had an unfavorable impact of $19.4 million on net sales for the three months ended March 31, 2009.

During the third quarter of 2008 we began collecting a VAT from our distributors that has been levied by the Mexican government on the import and resale of certain nutrition products. Distributors previously paid 0% VAT on purchases of most of our nutrition products. In the first quarter of 2009, this VAT increase affected approximately 56% of our sales volume in the region and because Nutrition Clubs are the predominant DMO in Mexico, which are retail price-sensitive, the VAT increase has caused our volumes to decline. We are in the process of challenging this assessment on several fronts, however in the near-term while the products continue to be subject to VAT, we expect volume growth to be constrained in Mexico. We are also exploring product re-formulations that would enable us to sell nutrition products in Mexico which would not be subject to the VAT charge.

New supervisors in Mexico decreased 40.8% for the year ended March 31, 2009, as compared to the same period in 2008. Total supervisors in Mexico decreased 17.6%.

In January 2009, Mexico hosted a President's Tour in 15 cities which was attended by over 16,000 distributors. In March 2009, Mexico hosted a "Why Herbalife, Why Now?" tour in four cities featuring CEO Michael O. Johnson with a combined total attendance of over 16,000 distributors.

We believe the fiscal year 2009 net sales in Mexico should decrease reflecting lower volumes due to the VAT charge coupled with assumed unfavorable currency fluctuations.

South and Central America

The South and Central America region reported net sales of $75.3 million for the three months ended March 31, 2009. Net sales decreased $30.7 million or 29.0% for the three months ended March 31, 2009, as compared to the same period in 2008. In local currency, net sales decreased 16.5% for the three months ended March 31, 2009, as compared to the same period in 2008. The fluctuation of foreign currency rates had a $13.3 million unfavorable impact on net sales for the three months ended March 31, 2009. The decrease in local currency net sales in the region was attributable to net sales decreases in most of the markets in the region partially offset by sales in Ecuador which was opened in the fourth quarter of 2008.

In Brazil, the region's largest market, net sales decreased $2.7 million, or 7.6%, for the three months ended March 31, 2009, as compared to the same period in 2008. In local currency, net sales increased 23.0% for the three months ended March 31, 2009, as compared to the same period in 2008. The increase in local currency net sales was a result of distributors successfully transforming this market into a more balanced mix of recruiting, retailing and retention via the Nutrition Club and daily consumption based DMOs. The fluctuation of foreign currency rates had a $10.9 million unfavorable impact on net sales for the three months ended March 31, 2009.

Venezuela, the region's second largest market, experienced a net sales decrease of $7.7 million or 30.7%, for the three months ended March 31, 2009 as compared to the same period in 2008. On a sequential quarter basis, Venezuela appears to have stabilized following a slowdown in volume during the second half of 2008 as a result of price increases of 20% and 25% in January and May 2008, respectively.

In February 2009, the region hosted three Extravaganzas in Chile, Colombia, and Panama with collectively over 18,300 distributors in attendance. In addition, Brazil hosted an Extravaganza in April 2009 with attendance of over 12,000 distributors.

New supervisors in the region decreased 39.6% for the three months ended March 31, 2009, as compared to the same period in 2008. For the three months ended March 31, 2009, the decrease was driven by declines in Argentina, Venezuela, Bolivia and Peru of 84.3%, 72.1%, 59.8%, and 57.5%, respectively, as compared to the same period in 2008. These declines were partially offset by increases in new supervisor growth in Brazil which increased 11.8% for the three months ended March 31, 2009 as compared to the same period in 2008. Total supervisors in the region decreased 1.9%.

We believe the fiscal year 2009 net sales in South and Central America should show a decline primarily due to challenging volume comparisons in Venezuela, Argentina and Peru and assumed unfavorable currency fluctuations partially offset by the success of daily consumption DMOs, primarily in Brazil, as well as product price increases.

EMEA

The EMEA region reported net sales of $123.3 million for the three months ended March 31, 2009. Net sales decreased $34.7 million, or 22.0%, for the three months ended March 31, 2009, as compared to 2008. In local currency, net sales decreased 6.6% for the three months ended March 31, 2009, as compared to 2008. The fluctuation of foreign currency rates had an unfavorable impact on net sales of $24.3 million for the three months ended March 31, 2009.

Among the largest markets in the region, Italy, France and Spain net sales decreased 3.9%, 22.5% and 48.3%, respectively, for the three months ended March 31, 2009, as compared to the same period in 2008. In local currency, Italy reported a net sales increase of 10.5% while France and Spain reported net sales decreases of 10.8% and 40.8%, respectively, for the three months ended March 31, 2009, as compared to the same period in 2008. The decrease in net sales for Spain reflects the impact of negative media reports in April 2008 relating to the Spanish Ministry of Health alert regarding Herbalife products. In Russia, net sales decreased by 21.0% for the three months ended March 31, 2009, as compared to the same period in 2008. In local currency, however, net sales increased by 11.6% for the three months ended March 31, 2009, as compared to the same period in 2008. The increase in local currency net sales was primarily driven by the continued adoption of the Nutrition Club concept in the form of a

Breakfast Club DMO. Net sales in the Netherlands decreased 11.9% for the three months ended March 31, 2009, as compared to the same period in 2008. In local currency, however, net sales increased 1.1% over the same period compared to the prior year period reflecting a re-activated distributor base that is utilizing the Wellness Evaluation and Healthy Breakfast DMOs. Portugal net sales declined 61.8% for the three months ended March 31, 2009, as it continues to transition towards a daily consumption model.

For the three months ended March 31, 2009, new supervisors for the region decreased 19.9%, with declines in Portugal, Spain and the CIS countries of 78.7%, 62.6% and 35.4%, respectively. These declines were partially offset by increases in Russia and Italy, where new supervisors increased 26.4% and 10.5%, respectively, for the three months ended March 31, 2009. Total supervisors in the region decreased 10.3%.

We believe fiscal year 2009 net sales in EMEA should show a decrease due primarily to assumed unfavorable currency fluctuations and soft volume point trends.

Asia Pacific

The Asia Pacific region, which excludes China, reported net sales of $114.0 million for the three months ended March 31, 2009. Net sales increased $10.3 million, or 9.9%, for the three months ended March 31, 2009, as compared to the same period in 2008. In local currency, net sales increased 29.8% for the three months ended March 31, 2009, as compared to the same period in 2008. The fluctuation of foreign currency rates had an unfavorable impact of $20.6 million on net sales for the three months ended March 31, 2009. The increase in net sales in Asia Pacific was primarily attributable to increases in three of our largest markets in the region, Taiwan, South Korea and Malaysia, partially offset by a decrease in Japan.

Net sales in Taiwan, our largest market in the region, increased $12.7 million, or 41.7%, for the three months ended March 31, 2009, as compared to the same period in 2008. In local currency, net sales increased 54.3% for the three months ended March 31, 2009, as compared to the same period in 2008. Adoption of the Nutrition Club DMO, in the form of Commercial Clubs, has been a positive catalyst for growth in this country. Sales were further bolstered in the first quarter of 2009 by a promotion which was done in conjunction with a government sponsored Consumption Voucher project. This promotion was in place for both February and March.

Net sales in South Korea, our second largest market in the region, increased $0.8 million, or 5.0%, for the three months ended March 31, 2009, as compared to the same period in 2008. In local currency, net sales increased 55.9% for the three months ended March 31, 2009, as compared to the same period in 2008. The increase in local currency net sales was driven by branding activities and the adoption of the Nutrition Club DMO, in the form of Commercial Clubs. The fluctuation of foreign currency rates had an unfavorable impact on net sales of $8.3 million or 50.9% for the three months ended March 31, 2009, as compared to the same period in 2008.

Net sales in Japan, our third largest market in the region, decreased $6.0 million, or 28.0%, for the three months ended March 31, 2009, as compared to the same period in 2008. In local currency, net sales decreased 18.0% for the three months ended March 31, 2009, as compared to the same period in 2008. The decrease in local currency net sales was driven by a continuing decline in distributor recruiting. The fluctuation of foreign currency rates had an unfavorable impact on net sales of $2.1 million or 10.0% for the three months ended March 31, 2009, as compared to the same period in 2008.

Net sales in Malaysia, our fourth largest market in the region, increased $2.9 million, or 34.7%, for the three months ended March 31, 2009, as compared to the same period in 2008, reflecting the continued success of the Road Show DMO, which has generated positive distributor momentum and increased recruiting. In local currency, net sales increased 51.6% for the three months ended March 31, 2009, as compared to the same period in 2008.

New supervisors in the region increased 22.3% for the three months ended March 31, 2009, as compared to the same period in 2008. New supervisors for India, Korea and Taiwan increased 83.8%, 56.4% and 29.2%, respectively, for the three months ended March 31, 2009. These increases were offset by declines in Japan and Australia of 71.5% and 39.7%, respectively, for the three months ended March 31, 2009. Total supervisor growth in the region increased 7.0%.

We believe the fiscal year 2009 net sales in Asia Pacific should be approximately flat compared to prior year as projected volume increases will be offset by assumed unfavorable foreign currency fluctuations.

China

Net sales in China were $26.8 million for the three months ended March 31, 2009. Net sales increased $2.3 million, or 9.4%, for three months ended March 31, 2009, compared to the same period in 2008. In local currency, net sales increased 4.8% for the three months ended March 31, 2009, as compared to the same period in 2008. The fluctuation of foreign currency rates had a favorable impact of $1.2 million on net sales for the three months ended March 31, 2009.

The current focus in China is to transition to a more retail based environment led by the introduction of nutrition clubs to increase the emphasis on daily consumption methods of operation. As experienced in other markets which have gone through a similar transition, China is experiencing a slow-down in sales growth as distributors begin to build their nutrition club business. As of March 31, 2009, there were currently over 100 clubs operating within major cities throughout China. We believe the recent success of the club DMO in Taiwan could be achieved over the next few years throughout China.

In March 2009, China held a Spectacular in the city of Nanjing with over 9,000 attendees.

As of March 31, 2009, we had 84 stores in China across 30 provinces. We currently have direct selling licenses in six provinces: JiangSu, Beijing, Guangdong, Shandong, Zhejiang (excluding Ningbo) and Guizhou. In Beijing, our direct selling license will permit us to sell away from fixed retail locations once our Beijing outlet is inspected and confirmed by the relevant authority. In addition, we have submitted applications for five additional direct selling licenses in China.

New sales employees in China decreased 0.5% for the three months ended March 31, 2009, as compared to the same period in 2008. Overall, sales employees in China increased 17.2%.

We believe the fiscal year 2009 net sales in China should increase slightly year over year, primarily as a result of improved store productivity and continuing growth of nutrition clubs.

Sales by Product Category

	Three Months Ended March 31,									
	2009					2008				
	Retail Sales	Distributor Allowance	Product Sales	Handling & Freight Income	Net Sales	Retail Sales	Distributor Allowance	Product Sales	Handling & Freight Income	Net Sales	% Change in Net Sales
	(In millions)										
Weight Management	$ 542.8	$ (262.1)	$ 280.7	$ 48.5	$ 329.2	$ 644.3	$ (317.8)	$ 326.5	$ 54.3	$ 380.8	(13.6)%
Targeted Nutrition	181.4	(87.6)	93.8	16.2	110.0	212.6	(104.9)	107.7	17.9	125.6	(12.4)%
Energy, Sports and Fitness	35.5	(17.1)	18.4	3.2	21.6	40.6	(20.0)	20.6	3.4	24.0	(10.0)%
Outer Nutrition	52.0	(25.1)	26.9	4.6	31.5	68.1	(33.6)	34.5	5.7	40.2	(21.6)%
Literature, Promotional and Other	25.2	1.9	27.1	2.3	29.4	28.2	3.2	31.4	2.4	33.8	(13.0)%
Total	$ 836.9	$ (390.0)	$ 446.9	$ 74.8	$ 521.7	$ 993.8	$ (473.1)	$ 520.7	$ 83.7	$ 604.4	(13.7)%

Net sales of all product categories decreased for the three months ended March 31, 2009, as compared to the same period in 2008, mainly due to the changes in net sales in the geographic regions discussed above.

Gross Profit

Gross profit was $419.3 million for the three months ended March 31, 2009, as compared to $486.8 million for the same period in 2008. As a percentage of net sales, gross profit for the three months ended March 31, 2009 decreased slightly to 80.4% as compared to 80.5% for the same period in 2008. Generally, gross profit percentages do not vary significantly as a percentage of net sales. We are experiencing ingredient and product price pressure in

the areas of soy and dairy products along with currency fluctuations reflecting current global economic trends. We believe that we have the ability to mitigate some of these cost increases through improved optimization of our supply chain coupled with select increases in the retail prices of our products.

Royalty Overrides

Royalty overrides as a percentage of net sales was 33.7% for the three months ended March 31, 2009, as compared to 35.2% for the same period in 2008. The decrease for the three months ended March 31, 2009, was primarily due to changes in country mix and the increase in net sales in China where compensation to our full-time employee sales representatives is included in selling, general and administrative expenses as opposed to royalty overrides where it is included for all other distributors under our worldwide marketing plan. Generally, this ratio varies slightly from period to period due to changes in the mix of products and countries because full royalty overrides are not paid on certain products and in certain countries. We anticipate fluctuations in royalty overrides as a percent of net sales reflecting the growth prospect of our China business relative to that of our worldwide business.

Selling, General and Administrative Expenses

Selling, general and administrative expenses as a percentage of net sales was 34.8% for the three months ended March 31, 2009, as compared to 30.5% for the same period in 2008.

For the three months ended March 31, 2009, selling, general and administrative expenses decreased $2.9 million to $181.5 million from $184.4 million for the same period in 2008. The decrease for the three months ended March 31, 2009 included $1.7 million in lower salaries and benefits mainly resulting from our restructuring initiatives; $4.3 million in lower distributor sales events costs; and $4.1 million in lower non-income tax expenses. These decreases were partially offset by $4.5 million in higher depreciation and amortization expenses, related mostly to the development of our technology infrastructure and the expansion and relocation of certain of our operations to new facilities; and $3.9 million in higher foreign currency exchange losses during the three months ended March 31, 2009 as compared to the same period in 2008.

We expect 2009 selling, general and administrative expenses to increase slightly in absolute dollars over 2008 levels reflecting higher China sales employee costs, increased depreciation, primarily related to our global Oracle implementation, and various sales growth initiatives, including distributor promotions. As a result of these factors, selling, general and administrative expenses as a percentage of net sales is expected to be above 2008 levels. Excluding China sales employee costs, we also expect selling, general and administrative expenses as a percentage of net sales to be higher than 2008 levels.

Net Interest Expense

Net interest expense is as follows:

Net Interest Expense	Three Months Ended	
	March 31, 2009	March 31, 2008
	(Dollars in millions)	
Interest expense	3.3	5.5
Interest income	(1.6)	(1.7)
Net interest expense	$ 1.7	$ 3.8

The decrease in interest expense for the three months ended March 31, 2009 as compared to the same period in 2008 was primarily due to lower interest rates in 2009 as compared to 2008. See *"Liquidity and Capital Resources"* below for further discussion on our senior secured credit facility.

Income Taxes

Income taxes were $19.0 million for the three months ended March 31, 2009, as compared to $23.5 million for the same period in 2008. As a percentage of pre-tax income, the effective income tax rate was 31.4% for the three months ended March 31, 2009, as compared to 27.4% for the same period in 2008. The increase in the effective tax

rate for the three months ended March 31, 2009, as compared to the same period in 2008, was primarily due to an increase in the operating effective tax rate reflecting changes in the country mix.

Restructuring Costs

As part of our restructuring initiatives, we recorded $0.6 million and $0.4 million of professional fees, severance and related costs for the three months ended March 31, 2009 and 2008, respectively. All such amounts were included in selling, general and administrative expenses.

Subsequent Event

On April 30, 2009, our board of directors authorized a $0.20 per common share cash dividend for the first quarter of 2009, payable on June 5, 2009 to shareholders of record on May 22, 2009.

Our share repurchase program in effect on March 31, 2009 expired on April 17, 2009 pursuant to its terms. On April 30, 2009, we announced that our board of directors authorized a new program to repurchase up to $300 million of our common shares during the next two years, at such times and prices as determined by management.

Liquidity and Capital Resources

We have historically met our working capital and capital expenditure requirements, including funding for expansion of operations, through net cash flows provided by operating activities. Our principal source of liquidity is our operating cash flows. Variations in sales of our products would directly affect the availability of funds. There are no material restrictions on the ability to transfer and remit funds among our international affiliated companies. We are closely monitoring various aspects of the current worldwide financial crisis and we do not believe that there has been or will be a material impact on our liquidity from this crisis. As noted above, we have historically met our funding needs utilizing cash flow from operating activities and we believe we will have sufficient resources to meet debt service obligations in a timely manner. Our existing debt has primarily resulted from our share repurchase activities and not from the need to fund our normal operations, therefore limiting the impact that the current worldwide credit crisis has on us. While a significant net sales decline could potentially affect the availability of funds, many of our largest expenses are purely variable in nature, which could protect our funding in all but a dramatic net sales downturn. Further we maintain a revolving credit facility which had $68.0 million of undrawn capacity as of March 31, 2009, and is comprised of banks who are continuing to support the facility through the recent worldwide financial crisis.

For the three months ended March 31, 2009, we generated $86.0 million of operating cash flow, as compared to $62.8 million for the same period in 2008. The increase in cash generated from operations was primarily due to the increase in non-cash items included in net income for the three months ended March 31, 2009, as compared to the same period in 2008, and decrease in operating assets for the three months ended March 31, 2009, compared to an increase in operating assets and liabilities for the same period in 2008. This was partially offset by lower operating income for the three months ended March 31, 2009, compared to the same period in 2008.

Capital expenditures, including capital leases, for the three months ended March 31, 2009, were $14.4 million as compared to $24.6 million for the same period in 2008. The majority of these expenditures represented investments in management information systems, the development of our distributor internet initiatives, and the expansion of our facilities domestically and internationally. The decrease from 2008 was primarily related to the Oracle upgrade and implementation in certain regions. We expect to incur capital expenditures of approximately $60.0 million in 2009.

We entered into a $300.0 million senior secured credit facility, comprised of a $200.0 million term loan and a revolving credit facility of $100.0 million, with a syndicate of financial institutions as lenders in July 2006. The term loan matures on July 21, 2013 and the revolving credit facility is available until July 21, 2012. The term loan bears interest at LIBOR plus a margin of 1.5%, or the base rate, which represents the prime rate offered by major U.S. banks, plus a margin of 0.50%. The revolving credit facility bears interest at LIBOR plus a margin of 1.25%, or the base rate, which represents the prime rate offered by major U.S. banks, plus a margin of 0.25%. In September 2007, we amended our senior secured credit facility, increasing the revolving credit facility by $150.0 million to

$250.0 million to fund the increase in our share repurchase program discussed below. During the first quarter of 2009, the Company borrowed an additional $19.0 million under the revolving credit facility and paid $14.7 million of the revolving credit facility.

The following summarizes our contractual obligations including interest at March 31, 2009, and the effect such obligations are expected to have on our liquidity and cash flows in future periods:

	Payments Due by Period						
	Total	2009	2010	2011	2012	2013	2014 & Thereafter
	(Dollars in millions)						
Borrowings under the senior credit facility	$ 356.4	$ 6.6	$ 8.8	$ 8.7	$ 189.3	$ 143.0	$ —
Capital leases	6.8	1.9	2.1	1.8	1.0	—	—
Operating leases	141.3	25.3	26.8	19.2	14.7	14.0	41.3
Other	26.8	6.6	14.9	5.3	—	—	—
Total	$ 531.3	$ 40.4	$ 52.6	$ 35.0	$ 205.0	$ 157.0	$ 41.3

Off Balance Sheet Arrangements

At March 31, 2009 and December 31, 2008, we had no material off-balance sheet arrangements as defined in Item 303(a)(4)(ii) of Regulation S-K.

Share Repurchases

On April 18, 2007, our board of directors authorized the repurchase of up to $300 million of our common shares during the next two years, at such times and prices as determined by our management, as market conditions warrant. On August 23, 2007, our board of directors approved an increase of $150 million, raising the total value of our common shares authorized to be repurchased to $450 million. On May 20, 2008, our board of directors approved an additional increase of $150 million to our previously authorized share repurchase program raising the total value of common shares authorized to be repurchased to $600 million. During the three months ended March 31, 2009, we did not repurchase any of our common shares. As of March 31, 2009, since the inception of the share repurchase program, we have repurchased approximately 13.7 million of our common shares at an aggregate cost of $502.8 million, or an average cost of $36.76 per share. As of March 31, 2009, approximately $97.2 million of this authorization remained available. This share repurchase program expired on April 17, 2009 pursuant to its terms.

Dividends

During the second quarter of 2007, our board of directors adopted a regular quarterly cash dividend program. On February 20, 2009, our board of directors approved a quarterly cash dividend of $0.20 per common share in an aggregate amount of $12.3 million, for the fourth quarter of 2008 that was paid to shareholders of record on March 17, 2009.

Working Capital and Operating Activities

As of March 31, 2009 and December 31, 2008, we had positive working capital of $114.4 million and $82.9 million, respectively. Cash and cash equivalents were $194.7 million at March 31, 2009, compared to $150.8 million at December 31, 2008.

We expect that cash and funds provided from operations and available borrowings under our revolving credit facility will provide sufficient working capital to operate our business, to make expected capital expenditures and to meet foreseeable liquidity requirements, including debt service on our term loan.

The majority of our purchases from suppliers are generally made in U.S. dollars, while sales to our distributors generally are made in local currencies. Consequently, strengthening of the U.S. dollar versus a foreign currency can have a negative impact on net sales and operating margins and can generate transaction losses on intercompany

transactions. For discussion of our foreign exchange contracts and other hedging arrangements, see Part I, Item 3 — *Quantitative and Qualitative Disclosures about Market Risk*.

Currency restrictions enacted by the Venezuelan government in 2003 have become more restrictive and have impacted the ability of our Venezuelan subsidiary, Herbalife Venezuela, to obtain U.S. dollars at the official foreign exchange rate. Unless official foreign exchange is made more readily available, the results of Herbalife Venezuela's operations could be negatively impacted as it may obtain more U.S. dollars from alternative sources where the exchange rate is weaker than the official rate.

At March 31, 2009, Herbalife Venezuela had cash balances of approximately $43.9 million, primarily denominated in bolivars, translated at the official exchange rate. We continue to evaluate the political and economic environment in Venezuela and any potential changes which may affect our operations. We continue to make appropriate applications through the Venezuelan government and its Foreign Exchange Commission, CADIVI, for approval to obtain U.S. dollars at the official exchange rate to pay for imported product and to pay an annual dividend. The approval process has been delayed in recent periods and we have not been given any assurances as to when it will be completed. Herbalife Venezuela may rely on a legal parallel exchange process to repatriate U.S. dollars and we would currently be able to do so at an unfavorable exchange rate. This could result in our Company having fewer U.S. dollars than currently reported as cash and cash equivalents and may result in a charge to operating profit. From time to time, we have recognized charges to operating income in connection with the exchange of bolivars to U.S. dollars at rates which were unfavorable to the official exchange rate. Herbalife Venezuela's net sales represented less than 4% of consolidated worldwide net sales for the three months ended March 31, 2009.

Inflation in Venezuela has continued to increase over the past few years and it is possible that Venezuela will be designated as a highly inflationary economy during 2009. Gains and losses resulting from the translation of the financial statements of subsidiaries operating in highly inflationary economies are recorded in earnings. If Venezuela is designated as a highly inflationary economy and there is a devaluation of the official rate, earnings could be negatively impacted.

Contingencies

We are from time to time engaged in routine litigation. We regularly review all pending litigation matters in which we are involved and establish reserves deemed appropriate by management for these litigation matters when a probable loss estimate can be made.

As a marketer of dietary and nutritional supplements and other products that are ingested by consumers or applied to their bodies, we have been and are currently subjected to various product liability claims. The effects of these claims to date have not been material to us, and the reasonably possible range of exposure on currently existing claims is not material to us. We believe that we have meritorious defenses to the allegations contained in the lawsuits. We currently maintain product liability insurance with an annual deductible of $10 million.

Certain of our subsidiaries have been subject to tax audits by governmental authorities in their respective countries. In certain of these tax audits, governmental authorities are proposing that significant amounts of additional taxes and related interest and penalties are due. We and our tax advisors believe that there are substantial defenses to their allegations that additional taxes are owed, and we are vigorously contesting the additional proposed taxes and related charges.

These matters may take several years to resolve, and we cannot be sure of their ultimate resolution. However, it is the opinion of management that adverse outcomes, if any, will not likely result in a material effect on our financial condition and operating results. This opinion is based on our belief that any losses we suffer would not be material and that we have meritorious defenses. Although we have reserved an amount that we believe represents the likely outcome of the resolution of these disputes, if we are incorrect in our assessment, we may have to record additional expenses.

Critical Accounting Policies

Our Consolidated Financial Statements are prepared in conformity with U.S. GAAP, which require us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent

assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the year. Actual results could differ from those estimates. We consider the following policies to be most critical in understanding the judgments that are involved in preparing the financial statements and the uncertainties that could impact our operating results, financial condition and cash flows.

We are a network marketing company that sells a wide range of weight management products, nutritional supplements, energy, sports & fitness products and personal care products within one industry segment as defined under Statement of Financial Accounting Standards, or SFAS, No. 131, *Disclosures about Segments of an Enterprise and Related Information*. Our products are manufactured by third party providers and then sold to independent distributors who sell Herbalife products to retail consumers or other distributors. We sell products in 70 countries throughout the world and we are organized and managed by geographic region. We have elected to aggregate our operating segments into one reporting segment, except China, as management believes that our operating segments have similar operating characteristics and similar long term operating performance. In making this determination, management believes that the operating segments are similar in the nature of the products sold, the product acquisition process, the types of customers to whom products are sold, the methods used to distribute the products, and the nature of the regulatory environment.

Revenue is recognized when products are shipped and title passes to the independent distributor or importer or as products are sold in our retail stores in China. Amounts billed for freight and handling costs are included in net sales. We generally receive the net sales price in cash or through credit card payments at the point of sale. Related royalty overrides and allowances for product returns are recorded when the merchandise is shipped.

Allowances for product returns, primarily in connection with our buyback program, are provided at the time the product is shipped. This accrual is based upon historic return rates for each country and the relevant return pattern, which reflects anticipated returns to be received over a period of up to 12 months following the original sale. Historically, product returns and buybacks have not been significant. Product returns and buybacks were approximately 0.6% and 0.8% of retail sales for the three months ended March 31, 2009 and 2008, respectively.

We record reserves against our inventory to provide for estimated obsolete or unsalable inventory based on assumptions about future demand for our products and market conditions. If future demand and market conditions are less favorable than management's assumptions, additional reserves could be required. Likewise, favorable future demand and market conditions could positively impact future operating results if previously reserved for inventory is sold. We reserved for obsolete and slow moving inventory totaling $11.9 million and $11.6 million as of March 31, 2009 and December 31, 2008, respectively.

In accordance with SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets,* such as property, plant, and equipment, and purchased intangibles subject to amortization, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated future cash flows, an impairment charge is recognized by the amount by which the carrying amount of the asset exceeds the fair value of the asset. Assets to be disposed of would be separately presented in the balance sheet and reported at the lower of the carrying amount or fair value less costs to sell, and are no longer depreciated. The assets and liabilities of a disposed group classified as held for sale would be presented separately in the appropriate asset and liability sections of the balance sheet.

Goodwill and other intangibles not subject to amortization are tested annually for impairment, and are tested for impairment more frequently if events and circumstances indicate that the asset might be impaired. An impairment loss is recognized to the extent that the carrying amount exceeds the asset's fair value. This determination is made at the reporting unit level and consists of two steps. First, we determine the fair value of a reporting unit and compare it to its carrying amount. Second, if the carrying amount of a reporting unit exceeds its fair value, an impairment loss is recognized for any excess of the carrying amount of the reporting unit's goodwill and other intangibles over the implied fair value. The implied fair value is determined by allocating the fair value of the reporting unit in a manner similar to a purchase price allocation, in accordance with SFAS No. 141R, *Business Combinations*. The residual fair value after this allocation is the implied fair value of the reporting unit's goodwill and other intangibles. As of March 31, 2009 and December 31, 2008, we had goodwill of approximately

$110.7 million and marketing franchise of $310.0 million. No marketing related intangibles or goodwill impairment was recorded during the three months ended March 31, 2009 and 2008.

Contingencies are accounted for in accordance with SFAS No. 5, *Accounting for Contingencies*, or SFAS 5. SFAS 5 requires that we record an estimated loss from a loss contingency when information available prior to issuance of our financial statements indicates that it is probable that an asset has been impaired or a liability has been incurred at the date of the financial statements and the amount of the loss can be reasonably estimated. Accounting for contingencies such as legal and income tax matters requires us to use judgment. Many of these legal and tax contingencies can take years to be resolved. Generally, as the time period increases over which the uncertainties are resolved, the likelihood of changes to the estimate of the ultimate outcome increases.

Deferred income tax assets have been established for net operating loss carryforwards of certain foreign subsidiaries and have been reduced by a valuation allowance to reflect them at amounts estimated to be ultimately realized. The net operating loss carryforwards expire in varying amounts over a future period of time. Realization of the income tax carryforwards is dependent on generating sufficient taxable income prior to expiration of the carryforwards. Although realization is not assured, we believe it is more likely than not that the net carrying value of the income tax carryforwards will be realized. The amount of the income tax carryforwards that is considered realizable, however, could change if estimates of future taxable income during the carryforward period are adjusted.

We account for stock-based compensation in accordance with SFAS No. 123R, *Share-Based Payment,* or SFAS 123R. Under the fair value recognition provisions of this statement, share-based compensation cost is measured at the grant date based on the value of the award and is recognized as an expense over the vesting period. Determining the fair value of share-based awards at the grant date requires judgment, including estimating our stock price volatility and employee stock award exercise behaviors. Our expected volatility is primarily based upon the historical volatility of our common shares and, due to the limited period of public trading data for our common shares, it is also validated against the volatility of a company peer group. The expected life of awards is based on the simple average of the average vesting period and the life of the award. As stock-based compensation expense recognized in the Statements of Income is based on awards ultimately expected to vest, the amount of expense has been reduced for estimated forfeitures. SFAS 123R requires forfeitures to be estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates. Forfeitures were estimated based on historical experience.

We account for uncertain tax positions in accordance with Financial Accounting Standards Board, or FASB, Interpretation Number 48, *Income Taxes,* or FIN 48. FIN 48 addressed the determination of how tax benefits claimed or expected to be claimed on a tax return should be recorded in the financial statements. Under FIN 48, we must recognize the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The tax benefits recognized in the financial statements from such a position are measured based on the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate resolution.

We account for and disclose fair value measurements in accordance with SFAS No. 157, *Fair Value Measurements,* or SFAS 157. SFAS 157 clarifies the definition of fair value, prescribes methods for measuring fair value, establishes a fair value hierarchy based on the inputs used to measure fair value, and expands disclosures about fair value measurements. As discussed in Note 13, *Fair Value Measurements,* to the notes to our consolidated financial statements, we properly measure and disclose our assets and liabilities in accordance with SFAS 157.

New Accounting Pronouncements

In April 2009, the FASB issued FASB Staff Position No. FAS 107-1 and Accounting Principles Board Opinion No. 28-1, *Interim Disclosures about Fair Value of Financial Instruments,* or FSP FAS 107-1. FSP FAS 107-1 amends FASB Statement No. 107, *Disclosures about Fair Value of Financial Instruments*, to require disclosures about fair value of financial instruments for interim reporting periods of publicly traded companies as well as in annual financial statements. FSP FAS 107-1 also amends Accounting Principles Board Opinion No. 28, *Interim Financial Reporting*, to require those disclosures in summarized financial information at interim reporting periods. FSP FAS 107-1 shall be effective for interim reporting periods ending after June 15, 2009, with early adoption permitted for periods ending after March 15, 2009. We have elected to adopt FSP FAS 107-1 for our interim period

ending June 30, 2009, and believe the adoption of FSP FAS 107-1 will not have a material impact to our consolidated financial statements.

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

We are exposed to market risks, which arise during the normal course of business from changes in interest rates and foreign currency exchange rates. On a selected basis, we use derivative financial instruments to manage or hedge these risks. All hedging transactions are authorized and executed pursuant to written guidelines and procedures.

We have adopted SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities*, or SFAS 133. SFAS 133, as amended and interpreted, established accounting and reporting standards for derivative instruments, including certain derivative instruments embedded in other contracts, and for hedging activities. All derivatives, whether designated in hedging relationships or not, are required to be recorded on the balance sheet at fair value. If the derivative is designated as a fair-value hedge, the changes in the fair value of the derivative and the underlying hedged item are recognized concurrently in earnings. If the derivative is designated as a cash-flow hedge, changes in the fair value of the derivative are recorded in other comprehensive income (loss) and are recognized in the statement of operations when the hedged item affects earnings. SFAS 133 defines the requirements for designation and documentation of hedging relationships as well as ongoing effectiveness assessments in order to use hedge accounting. For a derivative that does not qualify as a hedge, changes in fair value are recognized concurrently in earnings.

A discussion of our primary market risk exposures and derivatives is presented below.

Foreign Exchange Risk

We enter into foreign exchange derivatives in the ordinary course of business primarily to reduce exposure to currency fluctuations attributable to intercompany transactions, translation of local currency revenue, inventory purchases subject to foreign currency exposure, and to partially mitigate the impact of foreign currency rate fluctuations. With the exception of our foreign exchange forward contracts relating to forecasted inventory purchases, all of our foreign exchange contracts are designated as free standing derivatives for which hedge accounting does not apply. The changes in the fair market value of the derivatives not qualifying as cash flow hedges are included in selling, general and administrative expenses in our consolidated statements of income.

The foreign exchange forward contracts are used to hedge advances between subsidiaries and to partially mitigate the impact of foreign currency fluctuations. Foreign exchange average rate option contracts are also used to mitigate the impact of foreign currency rate fluctuations. The objective of these contracts is to neutralize the impact of foreign currency movements on the operating results of our subsidiaries. The fair value of forward and option contracts is based on third-party bank quotes.

We also purchase forward contracts in order to hedge forecasted inventory purchases that are designated as cash-flow hedges and are subject to foreign currency exposures. We have elected to apply the hedge accounting rules as required by SFAS 133, for these hedges. These contracts allow us to sell Euros in exchange for U.S. dollars at specified contract rates. As of March 31, 2009, approximately $36 million of these contracts were outstanding and are expected to mature over the next nine months. Our derivative financial instruments are recorded on the consolidated balance sheet at fair value based on quoted market rates. These forward contracts are used to hedge forecasted inventory purchases over specific months. Changes in the fair value of forward contracts, excluding forward points, designated as cash-flow hedges are recorded in other comprehensive income (loss), and are recognized in cost of sales in the period which approximates the time the hedged inventory is sold. As of March 31, 2009 we recorded an asset at fair value of $1.5 million.

As of March 31, 2009, all of our foreign exchange forward contracts had a maturity of less than one year, with the majority expiring within 90 days. As of March 31, 2009, there were no outstanding foreign exchange option contracts.

The following table provides information about the details of our foreign exchange forward contracts:

Foreign Currency	Average Contract Rate	Notional Amount (In millions)	Fair Value Gain (Loss) (In millions)
At March 31, 2009			
Buy EUR sell MXN	19.03	$ 42.3	$ (0.3)
Buy EUR sell HKD	10.20	$ 1.5	$ —
Buy SEK sell EUR	10.95	$ 1.9	$ —
Buy MYR sell EUR	4.84	$ 0.7	$ —
Buy DKK sell EUR	7.45	$ 1.4	$ —
Buy EUR sell CLP	775.75	$ 0.8	$ —
Buy EUR sell ARG	5.08	$ 9.1	$ (0.2)
Buy ARG sell EUR	5.02	$ 1.0	$ —
Buy TWD sell EUR	45.11	$ 4.7	$ —
Buy GBP sell EUR	0.93	$ 6.1	$ —
Buy USD sell EUR	1.34	$ 88.6	$ 1.0
Buy JPN sell USD	97.45	$ 7.2	$ (0.1)
Buy USD sell CAD	1.26	$ 1.6	$ —
Buy GBP sell USD	1.42	$ 1.0	$ —
Buy USD sell BRL	2.36	$ 5.7	$ (0.1)
Buy CLP sell USD	580.00	$ 2.8	$ —
Buy USD sell INR	51.77	$ 3.7	$ (0.1)
Buy JPN sell USD	97.45	$ 1.0	$ —
Buy MXN sell USD	14.45	$ 2.0	$ —
Buy USD sell RUB	34.41	$ 1.1	$ —
Buy HKD sell USD	7.75	$ 2.9	$ —
Buy USD sell PHP	48.59	$ 2.3	$ —
Total forward contracts		$ 189.4	$ 0.2

Most of our foreign subsidiaries designate their local currencies as their functional currencies. At March 31, 2009 and December 31, 2008, the total amount of our foreign subsidiary cash was $183.4 million and $142.0 million, respectively, of which $8.7 million and $9.7 million, respectively, was invested in U.S. dollars.

Interest Rate Risk

As of March 31, 2009, the aggregate annual maturities of our senior secured credit facility entered into on July 2006, as amended, were: 2009-$1.1 million; 2010-$1.5 million; 2011-$1.5 million; 2012-$183.5 million and $140.9 million in 2013. The fair value of our senior secured credit facility approximates its carrying value of $328.5 million as of March 31, 2009 and $324.5 million as of December 31, 2008. Our senior secured credit facility bears a variable interest rate, and on March 31, 2009 and December 31, 2008, the weighted average interest rate was 2.20% and 3.04%, respectively.

Under our senior secured credit facility, we are obligated to enter into an interest rate hedge for up to 25% of the aggregate principal amount of the term loan for a minimum of three years. On August 23, 2006, we entered into a new interest rate swap agreement. This agreement provides for us to pay interest for a three-year period at a fixed rate of 5.26% on the initial notional principal amount of $180.0 million while receiving interest for the same period at the LIBOR rate on the same notional principal amount. The notional amount is scheduled to be reduced by $20.0 million in the second, third and fourth quarters of each year commencing January 1, 2007, throughout the term of the swap. The swap has been designated as a cash flow hedge against the variability in LIBOR interest rate

on the new term loan at LIBOR plus 1.50%, thereby fixing our effective rate on the notional amounts at 6.76%. As of December 31, 2008, the swap notional amount was $40.0 million. As of March 31, 2009, the swap notional amount was $40.0 million. As of March 31, 2009 and December 31, 2008, we recorded the interest rate swap as a liability at fair value of $0.6 million and $1.0 million, respectively, with the offsetting amounts recorded in other comprehensive income.

Item 4. ***Controls And Procedures***

Evaluation of Disclosure Controls and Procedures. Our management, including our Chief Executive Officer and Chief Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, or the Exchange Act) as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on such evaluation, our Chief Executive Officer and our Chief Financial Officer have concluded that our disclosure controls and procedures were effective as of March 31, 2009.

Changes in Internal Control over Financial Reporting. There were no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-(f) under the Exchange Act) that occurred during the fiscal quarter ended March 31, 2009 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

FORWARD LOOKING STATEMENTS

This document contains "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended and Section 21E of the Securities Exchange Act of 1934, as amended. All statements other than statements of historical fact are "forward-looking statements" for purposes of federal and state securities laws, including any projections of earnings, revenue or other financial items; any statements of the plans, strategies and objectives of management for future operations; any statements concerning proposed new services or developments; any statements regarding future economic conditions or performance; any statements of belief; and any statements of assumptions underlying any of the foregoing. Forward-looking statements may include the words "may," "will," "estimate," "intend," "continue," "believe," "expect" or "anticipate" and any other similar words.

Although we believe that the expectations reflected in any of our forward-looking statements are reasonable, actual results could differ materially from those projected or assumed in any of our forward-looking statements. Our future financial condition and results of operations, as well as any forward-looking statements, are subject to change and to inherent risks and uncertainties, such as those disclosed or incorporated by reference in our filings with the Securities and Exchange Commission. Important factors that could cause our actual results, performance and achievements, or industry results to differ materially from estimates or projections contained in our forward-looking statements include, among others, the following:

- our relationship with, and our ability to influence the actions of, our distributors;
- adverse publicity associated with our products or network marketing organization;
- uncertainties relating to interpretation and enforcement of recently enacted legislation in China governing direct selling;
- our inability to obtain the necessary licenses to expand our direct selling business in China;
- adverse changes in the Chinese economy, Chinese legal system or Chinese governmental policies;
- improper action by our employees or international distributors in violation of applicable law;
- changing consumer preferences and demands;
- loss or departure of any member of our senior management team which could negatively impact our distributor relations and operating results;
- the competitive nature of our business;

- regulatory matters governing our products, including potential governmental or regulatory actions concerning the safety or efficacy of our products, and network marketing program including the direct selling market in which we operate;
- risks associated with operating internationally, including foreign exchange and devaluation risks;
- our dependence on increased penetration of existing markets;
- contractual limitations on our ability to expand our business;
- our reliance on our information technology infrastructure and outside manufacturers;
- the sufficiency of trademarks and other intellectual property rights;
- product concentration;
- our reliance on our management team;
- uncertainties relating to the application of transfer pricing, duties, value added taxes, and other tax regulations, and changes thereto;
- taxation relating to our distributors;
- product liability claims;
- any collateral impact resulting from the ongoing worldwide financial "crisis," including the availability of liquidity to us, our customers and our suppliers or the willingness of our customers to purchase products in a recessionary economic environment; and
- whether we will purchase any of our shares in the open markets or otherwise.

Additional factors that could cause actual results to differ materially from our forward-looking statements are set forth in this Quarterly Report on Form 10-Q, including under the heading "Risk Factors," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and in our Consolidated Financial Statements and the related Notes.

Forward-looking statements in this Quarterly Report on Form 10-Q speak only as of the date hereof, and forward-looking statements in documents attached that are incorporated by reference speak only as of the date of those documents. We do not undertake any obligation to update or release any revisions to any forward-looking statement or to report any events or circumstances after the date hereof or to reflect the occurrence of unanticipated events, except as required by law.

PART II. OTHER INFORMATION

Item 1. ***Legal Proceedings***

See discussion under Note 4, *Contingencies,* to the Notes to the Consolidated Financial Statements included in Item 1 of Part I of this Quarterly Report on Form 10-Q, which is incorporated herein by reference.

Item 1A. ***Risk Factors***

The worldwide financial and economic "crisis" could negatively impact our access to credit and the sales of our products and could harm our financial condition and operating results.

We are closely monitoring various aspects of the current worldwide financial and economic "crisis" and its potential impact on us, our liquidity, our access to capital, our operations and our overall financial condition. While we have historically met our funding needs utilizing cash flow from operating activities and while we believe we will have sufficient resources to meet current debt service obligations in a timely manner, no assurances can be given that the current overall downturn in the world economy will not significantly adversely impact us and our business operations. We note economic and financial markets are fluid and we cannot ensure that there will not be in the near future a material adverse deterioration in our sales or liquidity.

Our failure to establish and maintain distributor relationships for any reason could negatively impact sales of our products and harm our financial condition and operating results.

We distribute our products exclusively through over 1.9 million independent distributors, and we depend upon them directly for substantially all of our sales. To increase our revenue, we must increase the number of, or the productivity of, our distributors. Accordingly, our success depends in significant part upon our ability to recruit, retain and motivate a large base of distributors. There is a high rate of turnover among our distributors, which is a characteristic of the network marketing business. The loss of a significant number of distributors for any reason could negatively impact sales of our products and could impair our ability to attract new distributors. In our efforts to attract and retain distributors, we compete with other network marketing organizations, including those in the weight management, dietary and nutritional supplement and personal care and cosmetic product industries. Our operating results could be harmed if our existing and new business opportunities and products do not generate sufficient interest to retain existing distributors and attract new distributors.

Our distributor organization has a high turnover rate, which is a common characteristic found in the direct selling industry. In light of this fact, we have our supervisors re-qualify annually in order to maintain a more accurate count of their numbers. For the latest twelve month re-qualification period ending January 2009, 40.3% of our supervisors re-qualified. Distributors who purchase our product for personal consumption or for short-term income goals may stay with us for several months to one year. Supervisors who have committed time and effort to build a sales organization will generally stay for longer periods. Distributors have highly variable levels of training, skills and capabilities. The turnover rate of our distributors, and our operating results, can be adversely impacted if we, and our senior distributor leadership, do not provide the necessary mentoring, training and business support tools for new distributors to become successful sales people in a short period of time.

We estimate that, of our over 1.9 million independent distributors, we had approximately 341,000 sales leaders as of March 31, 2009. These sales leaders, together with their downline sales organizations, account for substantially all of our revenues. Our distributors, including our sales leaders, may voluntarily terminate their distributor agreements with us at any time. The loss of a group of leading sales leaders, together with their downline sales organizations, or the loss of a significant number of distributors for any reason, could negatively impact sales of our products, impair our ability to attract new distributors and harm our financial condition and operating results.

Since we cannot exert the same level of influence or control over our independent distributors as we could were they our own employees, our distributors could fail to comply with our distributor policies and procedures, which could result in claims against us that could harm our financial condition and operating results.

Excluding our China sales employees, our distributors are independent contractors and, accordingly, we are not in a position to directly provide the same direction, motivation and oversight as we would if distributors were our own employees. As a result, there can be no assurance that our distributors will participate in our marketing strategies or plans, accept our introduction of new products, or comply with our distributor policies and procedures.

Extensive federal, state and local laws regulate our business, products and network marketing program. Because we have expanded into foreign countries, our policies and procedures for our independent distributors differ due to the different legal requirements of each country in which we do business. While we have implemented distributor policies and procedures designed to govern distributor conduct and to protect the goodwill associated with Herbalife trademarks and tradenames, it can be difficult to enforce these policies and procedures because of the large number of distributors and their independent status. Violations by our independent distributors of applicable law or of our policies and procedures in dealing with customers could reflect negatively on our products and operations and harm our business reputation. In addition, it is possible that a court could hold us civilly or criminally accountable based on vicarious liability because of the actions of our independent distributors.

Adverse publicity associated with our products, ingredients or network marketing program, or those of similar companies, could harm our financial condition and operating results.

The size of our distribution force and the results of our operations may be significantly affected by the public's perception of the Company and similar companies. This perception is dependent upon opinions concerning:

- the safety and quality of our products and ingredients;
- the safety and quality of similar products and ingredients distributed by other companies;
- our distributors;
- our network marketing program; and
- the direct selling business generally.

Adverse publicity concerning any actual or purported failure of our Company or our independent distributors to comply with applicable laws and regulations regarding product claims and advertising, good manufacturing practices, the regulation of our network marketing program, the licensing of our products for sale in our target markets or other aspects of our business, whether or not resulting in enforcement actions or the imposition of penalties, could have an adverse effect on the goodwill of our Company and could negatively affect our ability to attract, motivate and retain distributors, which would negatively impact our ability to generate revenue. We cannot ensure that all distributors will comply with applicable legal requirements relating to the advertising, labeling, licensing or distribution of our products.

In addition, our distributors' and consumers' perception of the safety and quality of our products and ingredients as well as similar products and ingredients distributed by other companies can be significantly influenced by media attention, publicized scientific research or findings, widespread product liability claims and other publicity concerning our products or ingredients or similar products and ingredients distributed by other companies. For example, in May 2008 public allegations were made that certain of our products contain excessive amounts of lead thereby triggering disclosure and labeling requirements under California Proposition 65. While we have confidence in our products because they fall within the FDA suggested guidelines for the amount of lead that consumers can safely ingest and do not believe they trigger disclosure or labeling requirements under California Proposition 65, negative publicity such as this can disrupt our business. Adverse publicity, whether or not accurate or resulting from consumers' use or misuse of our products, that associates consumption of our products or ingredients or any similar products or ingredients with illness or other adverse effects, questions the benefits of our or similar products or claims that any such products are ineffective, inappropriately labeled or have inaccurate instructions as to their use, could lead to lawsuits or other legal challenges and could negatively impact our reputation, the market demand for our products, or our general business.

From time to time we receive inquiries from government agencies and third parties requesting information concerning our products. We fully cooperate with these inquiries including, when requested, by the submission of detailed technical dossiers addressing product composition, manufacturing, process control, quality assurance, and contaminant testing. We understand that such materials are undergoing review by regulators in certain markets. In the course of one such inquiry the Spanish Ministry of Health elected to issue a press release, or a communicado, to inform the public of their on-going inquiry and dialogue with our Company. Upon completion of its review of Herbalife products distributed in Spain, the Spanish Ministry of Health withdrew its communicado. We are confident in the safety of our products when used as directed. However, there can be no assurance that regulators in these or other markets will not take actions that might delay or prevent the introduction of new products, or require the reformulation or the temporary or permanent withdrawal of certain of our existing products from their markets.

Adverse publicity relating to us, our products or our operations, including our network marketing program or the attractiveness or viability of the financial opportunities provided thereby, has had, and could again have, a negative effect on our ability to attract, motivate and retain distributors. In the mid-1980's, our products and marketing program became the subject of regulatory scrutiny in the United States, resulting in large part from claims and representations made about our products by our independent distributors, including impermissible therapeutic claims. The resulting adverse publicity caused a rapid, substantial loss of distributors in the United

States and a corresponding reduction in sales beginning in 1985. We expect that negative publicity will, from time to time, continue to negatively impact our business in particular markets.

Our failure to appropriately respond to changing consumer preferences and demand for new products or product enhancements could significantly harm our distributor and customer relationships and product sales and harm our financial condition and operating results.

Our business is subject to changing consumer trends and preferences, especially with respect to weight management products. Our continued success depends in part on our ability to anticipate and respond to these changes, and we may not respond in a timely or commercially appropriate manner to such changes. Furthermore, the nutritional supplement industry is characterized by rapid and frequent changes in demand for products and new product introductions and enhancements. Our failure to accurately predict these trends could negatively impact consumer opinion of our products, which in turn could harm our customer and distributor relationships and cause the loss of sales. The success of our new product offerings and enhancements depends upon a number of factors, including our ability to:

- accurately anticipate customer needs;
- innovate and develop new products or product enhancements that meet these needs;
- successfully commercialize new products or product enhancements in a timely manner;
- price our products competitively;
- manufacture and deliver our products in sufficient volumes and in a timely manner; and
- differentiate our product offerings from those of our competitors.

If we do not introduce new products or make enhancements to meet the changing needs of our customers in a timely manner, some of our products could be rendered obsolete, which could negatively impact our revenues, financial condition and operating results.

Due to the high level of competition in our industry, we might fail to retain our customers and distributors, which would harm our financial condition and operating results.

The business of marketing weight management and nutrition products is highly competitive and sensitive to the introduction of new products or weight management plans, including various prescription drugs, which may rapidly capture a significant share of the market. These market segments include numerous manufacturers, distributors, marketers, retailers and physicians that actively compete for the business of consumers both in the United States and abroad. In addition, we anticipate that we will be subject to increasing competition in the future from sellers that utilize electronic commerce. Some of these competitors have longer operating histories, significantly greater financial, technical, product development, marketing and sales resources, greater name recognition, larger established customer bases and better-developed distribution channels than we do. Our present or future competitors may be able to develop products that are comparable or superior to those we offer, adapt more quickly than we do to new technologies, evolving industry trends and standards or customer requirements, or devote greater resources to the development, promotion and sale of their products than we do. For example, if our competitors develop other diet or weight loss treatments that prove to be more effective than our products, demand for our products could be reduced. Accordingly, we may not be able to compete effectively in our markets and competition may intensify.

We are also subject to significant competition for the recruitment of distributors from other network marketing organizations, including those that market weight management products, dietary and nutritional supplements and personal care products as well as other types of products. We compete for global customers and distributors with regard to weight management, nutritional supplement and personal care products. Our competitors include both direct selling companies such as NuSkin Enterprises, Nature’s Sunshine, Alticor/Amway, Melaleuca, Avon Products, Oriflame and Mary Kay, as well as retail establishments such as Weight Watchers, Jenny Craig, General Nutrition Centers, Wal-Mart and retail pharmacies.

In addition, because the industry in which we operate is not particularly capital intensive or otherwise subject to high barriers to entry, it is relatively easy for new competitors to emerge who will compete with us for our distributors and customers. In addition, the fact that our distributors may easily enter and exit our network marketing program contributes to the level of competition that we face. For example, a distributor can enter or exit our network marketing system with relative ease at any time without facing a significant investment or loss of capital because (1) we have a low upfront financial cost to become a Herbalife distributor, (2) we do not require any specific amount of time to work as a distributor, (3) we do not insist on any special training to be a distributor and (4) we do not prohibit a new distributor from working with another company. Our ability to remain competitive therefore depends, in significant part, on our success in recruiting and retaining distributors through an attractive compensation plan, the maintenance of an attractive product portfolio and other incentives. We cannot ensure that our programs for recruitment and retention of distributors will be successful and if they are not, our financial condition and operating results would be harmed.

We are affected by extensive laws, governmental regulations, administrative determinations, court decisions and similar constraints both domestically and abroad, and our failure or our distributors' failure to comply with these restraints could lead to the imposition of significant penalties or claims, which could harm our financial condition and operating results.

In both domestic and foreign markets, the formulation, manufacturing, packaging, labeling, distribution, importation, exportation, licensing, sale and storage of our products are affected by extensive laws, governmental regulations, administrative determinations, court decisions and similar constraints. Such laws, regulations and other constraints may exist at the federal, state or local levels in the United States and at all levels of government in foreign jurisdictions. There can be no assurance that we or our distributors are in compliance with all of these regulations. Our failure or our distributors' failure to comply with these regulations or new regulations could lead to the imposition of significant penalties or claims and could negatively impact our business. In addition, the adoption of new regulations or changes in the interpretations of existing regulations may result in significant compliance costs or discontinuation of product sales and may negatively impact the marketing of our products, resulting in significant loss of sales revenues.

In April 2006, the FTC issued a notice of proposed rulemaking which, if implemented in its originally proposed form, would have regulated all sellers of "business opportunities" in the United States. As originally proposed this rule would have applied to us and, if adopted in its proposed form, could have adversely impacted our U.S. business. On March 18, 2008, the FTC issued a revised proposed rule and, as indicated in the announcement accompanying the proposed rule, the revised proposal does not attempt to cover multilevel marketing companies such as Herbalife. If the revised rule were implemented as it is now proposed, we believe that it would not significantly impact our U.S. business. Based on information currently available, we anticipate that the rule may require a year or more to become final.

The FTC has requested comments on amendments to its Guides Concerning the Use of Endorsements and Testimonials in Advertising, or Guides. Although the Guides are not binding, they explain how the FTC interprets Section 5 of the FTC Act's prohibition on unfair or deceptive acts or practices. Consequently, the FTC could bring a Section 5 enforcement action based on practices that are inconsistent with the Guides. Under the proposal, a statement reflecting a consumer endorser's experience concerning a key attribute of the product generally would not be permissible with only a disclaimer of typicality (e.g., "Results Not Typical"). Instead, if the advertiser does not have substantiation that the endorser's experience is representative of what other consumers will generally achieve, the advertiser would be required to disclose clearly and conspicuously the generally expected performance of the product or service under the depicted circumstances and have adequate substantiation for that representation. The FTC has requested that comments concerning its proposed rule on product endorsements and testimonials be submitted by interested parties by January 30, 2009. If the Guides are amended and enforced by the FTC as presently proposed, marketing with the use of testimonials regarding consumer products, including but not limited those for market weight-management products, would be significantly impacted and might negatively effect our sales.

Governmental regulations in countries where we plan to commence or expand operations may prevent or delay entry into those markets. In addition, our ability to sustain satisfactory levels of sales in our markets is dependent in

significant part on our ability to introduce additional products into such markets. However, governmental regulations in our markets, both domestic and international, can delay or prevent the introduction, or require the reformulation or withdrawal, of certain of our products. For example, during the third quarter of 1995, we received inquiries from certain governmental agencies within Germany and Portugal regarding our product, *Thermojetics*® Instant Herbal Beverage, relating to the caffeine content of the product and the status of the product as an "instant tea," which was disfavored by regulators, versus a "beverage." Although we initially suspended the product sale in Germany and Portugal at the request of the regulators, we successfully reintroduced it once regulatory issues were satisfactorily resolved. In another example, during the second quarter of 2008 the Spanish Ministry of Health issued a press release, or a communicado, informing the public of its on-going inquiry into the safety of our Company's products sold in Spain. Upon completion of its review of Herbalife products distributed in Spain, the Spanish Ministry of Health withdrew its communicado. Any such regulatory action, whether or not it results in a final determination adverse to us, could create negative publicity, with detrimental effects on the motivation and recruitment of distributors and, consequently, on sales.

On June 25, 2007, the FDA published its final rule for cGMPs affecting the manufacture, packing, and holding of dietary supplements. The final rule requires identity testing on all incoming dietary ingredients, but permits the use of certificates of analysis or other documentation to verify the reliability of the ingredient suppliers. On the same date the FDA also published an interim final rule that outlined a petition process for manufacturers to request an exemption to the cGMP requirement for 100 percent identity testing of specific dietary ingredients used in the processing of dietary supplements. Under the interim final rule the manufacturer may be exempted from the dietary ingredient testing requirement if it can provide sufficient documentation that the reduced frequency of testing requested would still ensure the identity of the dietary ingredient. The final rule includes a phased-in effective date based on the size of the manufacturer. The final rule and the interim final rule became effective August 24, 2007. To limit any disruption for dietary supplements produced by small businesses the final rule has a three year phase in for small businesses. Firms that directly employ more than 500 full-time equivalent employees must have achieved compliance with the new cGMPs by June 25, 2008, while firms having between 20-500 full-time equivalent employees must be compliant by 2009 and firms having under 20 full-time equivalent employees must be compliant by 2010. Herbalife initiated enhancements, modifications and improvements to its manufacturing and corporate quality processes and believes we are compliant with the FDA's cGMP final rule with respect to dietary supplements sold by Herbalife in the United States that the Company produces at its Suzhou, China facility and that are produced by contract manufacturer NBTY. These rules apply only to manufacturers and holders of finished products and not to ingredient suppliers unless the ingredient supplier is manufacturing a final dietary supplement. The final rule differs from the FDA's 2003 proposed rule as it does not contain language regarding the regulatory status of excipients and other ingredients that are not "dietary ingredients." Instead, the final rule relies on a requirement to comply with all other relevant regulations. Further, the final rule does not call for any specific finished product testing program nor does it require 100% testing of all finished products. Instead the final rule calls for a "scientifically valid system" for ensuring that finished products meet all specifications. Due to the final cGMP rules, we have experienced increases in some product costs as a result of the necessary increase in testing of raw ingredients and finished products and this may cause us to seek alternate suppliers.

Our network marketing program could be found to be not in compliance with current or newly adopted laws or regulations in one or more markets, which could prevent us from conducting our business in these markets and harm our financial condition and operating results.

Our network marketing program is subject to a number of federal and state regulations administered by the FTC and various state agencies in the United States as well as regulations on direct selling in foreign markets administered by foreign agencies. We are subject to the risk that, in one or more markets, our network marketing program could be found not to be in compliance with applicable law or regulations. Regulations applicable to network marketing organizations generally are directed at preventing fraudulent or deceptive schemes, often referred to as "pyramid" or "chain sales" schemes, by ensuring that product sales ultimately are made to consumers and that advancement within an organization is based on sales of the organization's products rather than investments in the organization or other non-retail sales-related criteria. The regulatory requirements concerning network marketing programs do not include "bright line" rules and are inherently fact-based, and thus, even in jurisdictions where we believe that our network marketing program is in full compliance with applicable laws or regulations

governing network marketing systems, we are subject to the risk that these laws or regulations or the enforcement or interpretation of these laws and regulations by governmental agencies or courts can change. The failure of our network marketing program to comply with current or newly adopted regulations could negatively impact our business in a particular market or in general.

We are also subject to the risk of private party challenges to the legality of our network marketing program. The multi-level marketing programs of other companies have been successfully challenged in the past and in a current lawsuit, allegations have been made challenging the legality of our network marketing program in Belgium. Test Ankoop-Test Achat, a Belgian consumer protection organization, sued Herbalife International Belgium, S.V., or HIB, on August 26, 2004, alleging that HIB violated Article 84 of the Belgian Fair Trade Practices Act by engaging in pyramid selling, *i.e.*, establishing a network of professional or non-professional sales people who hope to make a profit more through the expansion of that network than through the sale of products to end-consumers. The plaintiff is seeking a payment of €25,000 (equal to approximately $32,600 as of March 31, 2009) per purported violation as well as costs of the trial. For the year ended December 31, 2008, our net sales in Belgium were approximately $16.7 million. Currently, the lawsuit is in the pleading stage. The plaintiffs filed their initial brief on September 27, 2005. We filed a reply brief on May 9, 2006 and on December 9, 2008 plaintiffs filed a responsive brief. There is no date yet for the oral hearings. An adverse judicial determination with respect to our network marketing program, or in proceedings not involving us directly but which challenge the legality of multi-level marketing systems, in Belgium or in any other market in which we operate, could negatively impact our business. We believe that we have meritorious defenses to the suit.

A substantial portion of our business is conducted in foreign markets, exposing us to the risks of trade or foreign exchange restrictions, increased tariffs, foreign currency fluctuations and similar risks associated with foreign operations.

Approximately 80% of our net sales for the year ended December 31, 2008, were generated outside the United States, exposing our business to risks associated with foreign operations. For example, a foreign government may impose trade or foreign exchange restrictions or increased tariffs, which could negatively impact our operations. We are also exposed to risks associated with foreign currency fluctuations. For instance, purchases from suppliers are generally made in U.S. dollars while sales to distributors are generally made in local currencies. Accordingly, strengthening of the U.S. dollar versus a foreign currency could have a negative impact on us. Although we engage in transactions to protect against risks associated with foreign currency fluctuations, we cannot be certain any hedging activity will effectively reduce our exchange rate exposure. Our operations in some markets also may be adversely affected by political, economic and social instability in foreign countries. As we continue to focus on expanding our existing international operations, these and other risks associated with international operations may increase, which could harm our financial condition and operating results.

Currency restrictions enacted by the Venezuelan government in 2003 have become more restrictive and have impacted the ability of our subsidiary in Venezuela, or Herbalife Venezuela, to obtain U.S. dollars at the official foreign exchange rate. We continue to make appropriate applications through the Venezuelan government and its Foreign Exchange Commission, CADIVI, for approval to obtain U.S. dollars at the official exchange rate to pay for imported product and to pay an annual dividend. The approval process has been delayed in recent periods and we have not been given any assurances as to when it will be completed. Unless our ability to obtain U.S. dollars at the official foreign exchange rate is made more readily available, the results of Herbalife Venezuela's operations will be negatively impacted as it may need to obtain more U.S. dollars from alternative sources where the exchange rate is weaker than the official rate.

Inflation in Venezuela has continued to increase over the past few years and it is possible that Venezuela will be designated as a highly inflationary economy during 2009. Gains and losses resulting from the translation of the financial statements of subsidiaries operating in highly inflationary economies are recorded in earnings. If Venezuela is designated as a highly inflationary economy and there is a devaluation of the official rate, earnings could be negatively impacted.

Our expansion in China is subject to general, as well as industry-specific, economic, political and legal developments and risks in China and requires that we utilize a different business model from that which we use elsewhere in the world.

Our expansion of operations into China is subject to risks and uncertainties related to general economic, political and legal developments in China, among other things. The Chinese government exercises significant control over the Chinese economy, including but not limited to controlling capital investments, allocating resources, setting monetary policy, controlling foreign exchange and monitoring foreign exchange rates, implementing and overseeing tax regulations, providing preferential treatment to certain industry segments or companies and issuing necessary licenses to conduct business. Accordingly, any adverse change in the Chinese economy, the Chinese legal system or Chinese governmental, economic or other policies could have a material adverse effect on our business in China and our prospects generally.

In August 2005, China published regulations governing direct selling (effective December 1, 2005) and prohibiting pyramid promotional schemes (effective November 1, 2005), and a number of administrative methods and proclamations were issued in September 2005 and in September 2006. These regulations require us to use a business model different from that which we offer in other markets. To allow us to operate under these regulations, we have created and introduced a model specifically for China. In China, we have Company-operated retail stores that sell through employed sales management personnel to customers and preferred customers. We provide training and certification procedures for sales personnel in China. We also have non-employee sales representatives who sell through our retail stores. Our sales representatives are also permitted by the terms of our direct selling license to sell away from fixed retail locations in the provinces of Jiangsu, Guangdong, Shandong, Zhejiang (excluding Ningbo), and Guizhou. In addition, our direct selling license for Beijing will permit us to sell away from fixed retail locations once our Beijing outlet is inspected and confirmed by the relevant authority. These features are not common to the business model we employ elsewhere in the world, and based on the direct selling licenses we have received and the terms of those which we hope to receive in the future to conduct a direct selling enterprise in China, our business model in China will continue in some part to incorporate such features. The direct selling regulations require us to apply for various approvals to conduct a direct selling enterprise in China. The process for obtaining the necessary licenses to conduct a direct selling business is protracted and cumbersome and involves multiple layers of Chinese governmental authorities and numerous governmental employees at each layer. While direct selling licenses are centrally issued, such licenses are generally valid only in the jurisdictions within which related approvals have been obtained. Such approvals are generally awarded on local and provincial bases, and the approval process requires involvement with multiple ministries at each level. Our participation and conduct during the approval process is guided not only by distinct Chinese practices and customs, but is also subject to applicable laws of China and the other jurisdictions in which we operate our business, including the U.S., and our internal code of ethics. There is always a risk that in attempting to comply with local customs and practices in China during the application process or otherwise, we will fail to comply with requirements applicable to us in China itself or in other jurisdictions, and any such failure to comply with applicable requirements could prevent us from obtaining the direct selling licenses or related local or provincial approvals. Furthermore, we rely on certain key personnel in China to assist us during the approval process, and the loss of any such key personnel could delay or hinder our ability to obtain licenses or related approvals. For all of the above reasons, there can be no assurance that we will obtain additional direct-selling licenses, or obtain related approvals to expand into any or all of the localities or provinces in China that are important to our business. Our inability to obtain, retain, or renew any or all of the licenses or related approvals that are required for us to operate in China would negatively impact our business.

Additionally, although certain regulations have been published with respect to obtaining such approvals, operating under such approvals and otherwise conducting business in China, other regulations are pending, and there is uncertainty regarding the interpretation and enforcement of Chinese regulations. The regulatory environment in China is evolving, and officials in the Chinese government exercise broad discretion in deciding how to interpret and apply regulations. We cannot be certain that our business model will continue to be deemed by national or local Chinese regulatory authorities to be compliant with any such regulations. In the past, the Chinese government has rigorously monitored the direct selling market in China, and has taken serious action against companies that the government believed were engaging in activities they regarded to be in violation of applicable law, including shutting down their businesses and imposing substantial fines. As a result, there can be no guarantee

that the Chinese government's current or future interpretation and application of the existing and new regulations will not negatively impact our business in China, result in regulatory investigations or lead to fines or penalties against us or our Chinese distributors.

Chinese regulations prevent persons who are not Chinese nationals from engaging in direct selling in China. We cannot guarantee that any of our distributors living outside of China or any of our independent sales representatives or employed sales management personnel in China have not engaged or will not engage in activities that violate our policies in this market, or that violate Chinese law or other applicable law, and therefore result in regulatory action and adverse publicity.

China enacted a labor contract law which took effect January 1, 2008 and on September 18, 2008 an implementing regulation took effect. We have reviewed our employment contracts and contractual relations with employees in China, which include certain of our sales persons, and have made such changes as we believed to be necessary or appropriate to bring these contracts and contractual relations into compliance with this new law and its implementing regulation. In addition, we continue to monitor the situation to determine how this new law and regulation will be implemented in practice. There is no guarantee that the new law will not adversely impact us, force us to change our treatment of our distributor employees, or cause us to change our operating plan for China.

If our operations in China are successful, we may experience rapid growth in China, and there can be no assurances that we will be able to successfully manage rapid expansion of manufacturing operations and a rapidly growing and dynamic sales force. There also can be no assurances that we will not experience difficulties in dealing with or taking employment related actions (such as hiring, terminations and salary administration, including social benefit payments) with respect to our employed sales representatives, particularly given the highly regulated nature of the employment relationship in China. If we are unable to effectively manage such growth and expansion of our retail stores, manufacturing operations or our employees, our government relations may be compromised and our operations in China may be harmed.

Our China business model, particularly with regard to sales management responsibilities and remuneration, differs from our traditional business model. There is a risk that such changes and transitions may not be understood by our distributors or employees, may be viewed negatively by our distributors or employees, or may not be correctly utilized by our distributors or employees. If that is the case, our business could be negatively impacted.

If we fail to further penetrate existing markets or successfully expand our business into new markets, then the growth in sales of our products, along with our operating results, could be negatively impacted.

The success of our business is to a large extent contingent on our ability to continue to grow by entering new markets and further penetrating existing markets. Our ability to further penetrate existing markets or to successfully expand our business into additional countries in Eastern Europe, Southeast Asia, South America or elsewhere, to the extent we believe that we have identified attractive geographic expansion opportunities in the future, is subject to numerous factors, many of which are out of our control.

In addition, government regulations in both our domestic and international markets can delay or prevent the introduction, or require the reformulation or withdrawal, of some of our products, which could negatively impact our business, financial condition and results of operations. Also, our ability to increase market penetration in certain countries may be limited by the finite number of persons in a given country inclined to pursue a direct selling business opportunity or consumers willing to purchase Herbalife products. Moreover, our growth will depend upon improved training and other activities that enhance distributor retention in our markets. While we have recently experienced significant growth in certain of our markets, we cannot assure you that such growth levels will continue in the immediate or long term future. Furthermore, our efforts to support growth in such international markets could be hampered to the extent that our infrastructure in such markets is deficient when compared to our more developed markets, such as the U.S. Therefore, we cannot assure you that our general efforts to increase our market penetration and distributor retention in existing markets will be successful. If we are unable to continue to expand into new markets or further penetrate existing markets, our operating results could suffer.

Our contractual obligation to sell our products only through our Herbalife distributor network and to refrain from changing certain aspects of our marketing plan may limit our growth.

We are a party to an agreement with our distributors that provides assurances that a change in ownership will not negatively affect certain aspects of their business. Through this agreement, we committed to our distributors that we will not sell Herbalife products through any distribution channel other than our network of independent Herbalife distributors. Thus, we are contractually prohibited from expanding our business by selling Herbalife products through other distribution channels that may be available to our competitors, such as over the internet, through wholesale sales, by establishing retail stores or through mail order systems. Since this is an open-ended commitment, there can be no assurance that we will be able to take advantage of innovative new distribution channels that are developed in the future.

In addition, our agreement with our distributors provides that we will not change certain aspects of our marketing plan without the consent of a specified percentage of our distributors. For example, our agreement with our distributors provides that we may increase, but not decrease, the discount percentages available to our distributors for the purchase of products or the applicable royalty override percentages, including roll-ups, and production and other bonus percentages available to our distributors at various qualification levels within our distributor hierarchy. We may not modify the eligibility or qualification criteria for these discounts, royalty overrides and production and other bonuses unless we do so in a manner to make eligibility and/or qualification easier than under the applicable criteria in effect as of the date of the agreement. Our agreement with our distributors further provides that we may not vary the criteria for qualification for each distributor tier within our distributor hierarchy, unless we do so in such a way so as to make qualification easier.

Although we reserved the right to make these changes to our marketing plan without the consent of our distributors in the event that changes are required by applicable law or are necessary in our reasonable business judgment to account for specific local market or currency conditions to achieve a reasonable profit on operations, there can be no assurance that our agreement with our distributors will not restrict our ability to adapt our marketing plan to the evolving requirements of the markets in which we operate. As a result, our growth may be limited.

We depend on the integrity and reliability of our information technology infrastructure, and any related inadequacies may result in substantial interruptions to our business.

Our ability to timely provide products to our distributors and their customers, and services to our distributors, depends on the integrity of our information technology system, which we are in the process of upgrading, including the reliability of software and services supplied by our vendors. We are implementing an Oracle enterprise-wide technology solution, a scalable and stable open architecture platform, to enhance our and our distributors' efficiency and productivity. In addition, we are upgrading our internet-based marketing and distributor services platform, *MyHerbalife.com.*

The most important aspect of our information technology infrastructure is the system through which we record and track distributor sales, volume points, royalty overrides, bonuses and other incentives. We have encountered, and may encounter in the future, errors in our software or our enterprise network, or inadequacies in the software and services supplied by our vendors, although to date none of these errors or inadequacies has had a meaningful adverse impact on our business. Any such errors or inadequacies that we may encounter in the future may result in substantial interruptions to our services and may damage our relationships with, or cause us to lose, our distributors if the errors or inadequacies impair our ability to track sales and pay royalty overrides, bonuses and other incentives, which would harm our financial condition and operating results. Such errors may be expensive or difficult to correct in a timely manner, and we may have little or no control over whether any inadequacies in software or services supplied to us by third parties are corrected, if at all.

Since we rely on independent third parties for the manufacture and supply of our products, if these third parties fail to reliably supply products to us at required levels of quality, then our financial condition and operating results would be harmed.

All of our products are manufactured by outside companies, except for a small amount of products manufactured in our own manufacturing facility in China. We cannot assure you that our outside manufacturers

will continue to reliably supply products to us at the levels of quality, or the quantities, we require, especially under the FDA's recently adopted cGMP regulations. While we are not presently aware of any current liquidity issues with our suppliers, we cannot assure you that they will not experience financial hardship as a result of the current global financial crisis.

Our supply contracts generally have a two-year term. Except for force majeure events such as natural disasters and other acts of God, and non-performance by Herbalife, our manufacturers generally cannot unilaterally terminate these contracts. These contracts can generally be extended by us at the end of the relevant time period and we have exercised this right in the past. Globally we have over 40 suppliers of our products. For our major products, we have both primary and secondary suppliers. Our major suppliers include Nature's Bounty for protein powders, Fine Foods (Italy) for protein powders and nutritional supplements, PharmaChem Labs for teas and *Niteworks*® and JB Labs for fiber. In the event any of our third-party manufacturers were to become unable or unwilling to continue to provide us with products in required volumes and at suitable quality levels, we would be required to identify and obtain acceptable replacement manufacturing sources. There is no assurance that we would be able to obtain alternative manufacturing sources on a timely basis. An extended interruption in the supply of products would result in the loss of sales. In addition, any actual or perceived degradation of product quality as a result of reliance on third party manufacturers may have an adverse effect on sales or result in increased product returns and buybacks. Also, as we experience ingredient and product price pressure in the areas of soy, dairy products, plastics, and transportation reflecting global economic trends, we believe that we have the ability to mitigate some of these cost increases through improved optimization of our supply chain coupled with select increases in the retail prices of our products.

If we fail to protect our trademarks and tradenames, then our ability to compete could be negatively affected, which would harm our financial condition and operating results.

The market for our products depends to a significant extent upon the goodwill associated with our trademark and tradenames. We own, or have licenses to use, the material trademark and trade name rights used in connection with the packaging, marketing and distribution of our products in the markets where those products are sold. Therefore, trademark and trade name protection is important to our business. Although most of our trademarks are registered in the United States and in certain foreign countries in which we operate, we may not be successful in asserting trademark or trade name protection. In addition, the laws of certain foreign countries may not protect our intellectual property rights to the same extent as the laws of the United States. The loss or infringement of our trademarks or tradenames could impair the goodwill associated with our brands and harm our reputation, which would harm our financial condition and operating results.

Unlike in most of the other markets in which we operate, limited protection of intellectual property is available under Chinese law. Accordingly, we face an increased risk in China that unauthorized parties may attempt to copy or otherwise obtain or use our trademarks, copyrights, product formulations or other intellectual property. Further, since Chinese commercial law is relatively undeveloped, we may have limited legal recourse in the event we encounter significant difficulties with intellectual property theft or infringement. As a result, we cannot assure you that we will be able to adequately protect our product formulations or other intellectual property.

We permit the limited use of our trademarks by our independent distributors to assist them in the marketing of our products. It is possible that doing so may increase the risk of unauthorized use or misuse of our trademarks in markets where their registration status differs from that asserted by our independent distributors, or they may be used in association with claims or products in a manner not permitted under applicable laws and regulations. Were this to occur it is possible that this could diminish the value of these marks or otherwise impair our further use of these marks.

If our distributors fail to comply with labeling laws, then our financial condition and operating results would be harmed.

Although the physical labeling of our products is not within the control of our independent distributors, our distributors must nevertheless advertise our products in compliance with the extensive regulations that exist in certain jurisdictions, such as the United States, which considers product advertising to be labeling for regulatory purposes.

Our products are sold principally as foods, dietary supplements and cosmetics and are subject to rigorous FDA and related legal regimens limiting the types of therapeutic claims that can be made for our products. The treatment or cure of disease, for example, is not a permitted claim for these products. While we train and attempt to monitor our distributors' marketing materials, we cannot ensure that all such materials comply with applicable regulations, including bans on therapeutic claims. If our distributors fail to comply with these restrictions, then we and our distributors could be subjected to claims, financial penalties, mandatory product recalls or relabeling requirements, which could harm our financial condition and operating results. Although we expect that our responsibility for the actions of our independent distributors in such an instance would be dependent on a determination that we either controlled or condoned a noncompliant advertising practice, there can be no assurance that we could not be held vicariously liable for the actions of our independent distributors.

If our intellectual property is not adequate to provide us with a competitive advantage or to prevent competitors from replicating our products, or if we infringe the intellectual property rights of others, then our financial condition and operating results would be harmed.

Our future success and ability to compete depend upon our ability to timely produce innovative products and product enhancements that motivate our distributors and customers, which we attempt to protect under a combination of copyright, trademark and trade secret laws, confidentiality procedures and contractual provisions. However, our products are generally not patented domestically or abroad, and the legal protections afforded by common law and contractual proprietary rights in our products provide only limited protection and may be time-consuming and expensive to enforce and/or maintain. Further, despite our efforts, we may be unable to prevent third parties from infringing upon or misappropriating our proprietary rights or from independently developing non-infringing products that are competitive with, equivalent to and/or superior to our products.

Monitoring infringement and/or misappropriation of intellectual property can be difficult and expensive, and we may not be able to detect any infringement or misappropriation of our proprietary rights. Even if we do detect infringement or misappropriation of our proprietary rights, litigation to enforce these rights could cause us to divert financial and other resources away from our business operations. Further, the laws of some foreign countries do not protect our proprietary rights to the same extent as do the laws of the United States.

Additionally, third parties may claim that products we have independently developed infringe upon their intellectual property rights. For example, in a previously settled lawsuit Unither Pharma, Inc. and others had alleged that sales by Herbalife International of (1) its *Niteworks*® and Prelox Blue products and (2) its former products Woman's Advantage with DHEA and Optimum Performance infringed on patents that are licensed to or owned by those parties. Although we do not believe that we are infringing on any third party intellectual property rights, there can be no assurance that one or more of our products will not be found to infringe upon other third party intellectual property rights in the future.

Since one of our products constitutes a significant portion of our retail sales, significant decreases in consumer demand for this product or our failure to produce a suitable replacement should we cease offering it would harm our financial condition and operating results.

Our Formula 1 meal replacement product constitutes a significant portion of our sales, accounting for approximately 31%, 30% and 28% of retail sales for the fiscal years ended December 31, 2008, 2007 and 2006, respectively. If consumer demand for this product decreases significantly or we cease offering this product without a suitable replacement, then our financial condition and operating results would be harmed.

If we lose the services of members of our senior management team, then our financial condition and operating results could be harmed.

We depend on the continued services of our Chairman and Chief Executive Officer, Michael O. Johnson, and our current senior management team as they work closely with the senior distributor leadership to create an environment of inspiration, motivation and entrepreneurial business success. Although we have entered into

employment agreements with certain members of our senior management team, and do not believe that any of them are planning to leave or retire in the near term, we cannot assure you that our senior managers will remain with us. The loss or departure of any member of our senior management team could adversely impact our distributor relations and operating results. If any of these executives do not remain with us, our business could suffer. Also, the loss of key personnel, including our regional and country managers, could negatively impact our ability to implement our business strategy, and our continued success will also be dependent on our ability to retain existing, and attract additional, qualified personnel to meet our needs. We currently do not maintain "key person" life insurance with respect to our senior management team.

The covenants in our existing indebtedness limit our discretion with respect to certain business matters, which could limit our ability to pursue certain strategic objectives and in turn harm our financial condition and operating results.

Our credit facility contains numerous financial and operating covenants that restrict our and our subsidiaries' ability to, among other things:

- pay dividends, redeem share capital or capital stock and make other restricted payments and investments;
- incur additional debt or issue preferred shares;
- impose dividend or other distribution restrictions on our subsidiaries;
- create liens on our and our subsidiaries' assets;
- engage in transactions with affiliates;
- guarantee other indebtedness; and
- merge, consolidate or sell all or substantially all of our assets and the assets of our subsidiaries.

In addition, our credit facility requires us to meet certain financial ratios and financial conditions. Our ability to comply with these covenants may be affected by events beyond our control, including prevailing economic, financial and industry conditions. Failure to comply with these covenants could result in a default causing all amounts to become due and payable under our credit facility, which is secured by substantially all of our assets, which the lenders thereunder could proceed to foreclose against.

If we do not comply with transfer pricing, customs duties, and similar regulations, then we may be subjected to additional taxes, duties, interest and penalties in material amounts, which could harm our financial condition and operating results.

As a multinational corporation, in many countries including the United States we are subject to transfer pricing and other tax regulations designed to ensure that our intercompany transactions are consummated at prices that have not been manipulated to produce a desired tax result, that appropriate levels of income are reported as earned by our United States or local entities, and that we are taxed appropriately on such transactions. In addition, our operations are subject to regulations designed to ensure that appropriate levels of customs duties are assessed on the importation of our products. We are currently subject to pending or proposed audits that are at various levels of review, assessment or appeal in a number of jurisdictions involving transfer pricing issues, income taxes, customs duties, value added taxes, withholding taxes, sales and use and other taxes and related interest and penalties in material amounts. For example, we are currently appealing a tax assessment in Spain. In another matter, in Mexico, we are awaiting a formal administrative assessment to start the judicial appeals process. The likelihood and timing of any such potential assessment is unknown as of the date hereof. The Company believes that it has meritorious defenses. In some circumstances, additional taxes, interest and penalties have been assessed and we will be required to pay the assessments or post surety, in order to challenge the assessments. The imposition of new taxes, even pass-through taxes such as VAT, could have an impact on our perceived product pricing and therefore a potential negative impact on our business. We have reserved in the consolidated financial statements an amount that we believe represents the most likely outcome of the resolution of these disputes, but if we are incorrect in our assessment we may have to pay the full amount asserted. Ultimate resolution of these matters may take several years, and the outcome is uncertain. If the United States Internal Revenue Service or the taxing authorities of any other jurisdiction

were to successfully challenge our transfer pricing practices or our positions regarding the payment of income taxes, customs duties, value added taxes, withholding taxes, sales and use, and other taxes, we could become subject to higher taxes and our earnings would be adversely affected. The U.S. Congress is currently considering various legislative proposals that, if passed, could require us to modify our current legal entity structure, the result of which would potentially increase our effective tax rate and would have an adverse effect on the Company's financial condition and results of operation.

We may be held responsible for certain taxes or assessments relating to the activities of our distributors, which could harm our financial condition and operating results.

Our distributors are subject to taxation, and in some instances, legislation or governmental agencies impose an obligation on us to collect taxes, such as value added taxes, and to maintain appropriate records. In addition, we are subject to the risk in some jurisdictions of being responsible for social security and similar taxes with respect to our distributors. In the event that local laws and regulations or the interpretation of local laws and regulations change to require us to treat our independent distributors as employees, or that our distributors are deemed by local regulatory authorities in one or more of the jurisdictions in which we operate to be our employees rather than independent contractors under existing laws and interpretations, we may be held responsible for social security and related taxes in those jurisdictions, plus any related assessments and penalties, which could harm our financial condition and operating results.

We may incur material product liability claims, which could increase our costs and harm our financial condition and operating results.

Our products consist of herbs, vitamins and minerals and other ingredients that are classified as foods or dietary supplements and are not subject to pre-market regulatory approval in the United States. Our products could contain contaminated substances, and some of our products contain some ingredients that do not have long histories of human consumption. We conduct limited clinical studies on some key products but not all products. Previously unknown adverse reactions resulting from human consumption of these ingredients could occur. As a marketer of dietary and nutritional supplements and other products that are ingested by consumers or applied to their bodies, we have been, and may again be, subjected to various product liability claims, including that the products contain contaminants, the products include inadequate instructions as to their uses, or the products include inadequate warnings concerning side effects and interactions with other substances. It is possible that widespread product liability claims could increase our costs, and adversely affect our revenues and operating income. Moreover, liability claims arising from a serious adverse event may increase our costs through higher insurance premiums and deductibles, and may make it more difficult to secure adequate insurance coverage in the future. In addition, our product liability insurance may fail to cover future product liability claims, thereby requiring us to pay substantial monetary damages and adversely affecting our business. Finally, given the higher level of self-insured retentions that we have accepted under our current product liability insurance policies, which are as high as approximately $10 million, in certain cases we may be subject to the full amount of liability associated with any injuries, which could be substantial.

Several years ago, a number of states restricted the sale of dietary supplements containing botanical sources of ephedrine alkaloids and on February 6, 2004, the FDA banned the use of such ephedrine alkaloids. Until late 2002, we had sold *Thermojetics*® original green herbal tablets, *Thermojetics*® green herbal tablets and *Thermojetics*® gold herbal tablets, all of which contained ephedrine alkaloids. Accordingly, we run the risk of product liability claims related to the ingestion of ephedrine alkaloids contained in those products. Currently, we have been named as a defendant in product liability lawsuits seeking to link the ingestion of certain of the aforementioned products to subsequent alleged medical problems suffered by plaintiffs. Although we believe that we have meritorious defenses to the allegations contained in these lawsuits, and are vigorously defending these claims, there can be no assurance that we will prevail in our defense of any or all of these matters.

We are subject to, among other things, requirements regarding the effectiveness of internal controls over financial reporting. In connection with these requirements, we conduct regular audits of our business and operations. Our failure to identify or correct deficiencies and areas of weakness in the course of these audits could adversely affect our financial condition and operating results.

We are required to comply with various corporate governance and financial reporting requirements under the Sarbanes-Oxley Act of 2002, as well as new rules and regulations adopted by the SEC, the Public Company Accounting Oversight Board and the New York Stock Exchange. In particular, we are required to include management and auditor reports on the effectiveness of internal controls over financial reporting as part of our annual reports on Form 10-K, pursuant to Section 404 of the Sarbanes-Oxley Act. We expect to continue to spend significant amounts of time and money on compliance with these rules. Our failure to correct any noted weaknesses in internal controls over financial reporting could result in the disclosure of material weaknesses which could have a material adverse effect upon the market value of our stock.

On a regular and on-going basis, we conduct audits through our internal audit department of various aspects of our business and operations. These internal audits are conducted to insure compliance with our policies and to strengthen our operations and related internal controls. The Audit Committee of our Board of Directors regularly reviews the results of these internal audits and, when appropriate, suggests remedial measures and actions to correct noted deficiencies or strengthen areas of weakness. There can be no assurance that these internal audits will uncover all material deficiencies or areas of weakness in our operations or internal controls. If left undetected and uncorrected, such deficiencies and weaknesses could have a material adverse effect on our financial condition and results of operations.

From time to time, the results of these internal audits may necessitate that we conduct further investigations into aspects of our business or operations. In addition, our business practices and operations may periodically be investigated by one or more of the many governmental authorities with jurisdiction over our worldwide operations. In the event that these investigations produce unfavorable results, we may be subjected to fines, penalties or loss of licenses or permits needed to operate in certain jurisdictions, any one of which could have a material adverse effect on our financial condition or operating results.

Holders of our common shares may face difficulties in protecting their interests because we are incorporated under Cayman Islands law.

Our corporate affairs are governed by our amended and restated memorandum and articles of association, and by the Companies Law (2007 Revision) and the common law of the Cayman Islands. The rights of our shareholders and the fiduciary responsibilities of our directors under Cayman Islands law are not as clearly established as under statutes or judicial precedent in existence in jurisdictions in the United States. Therefore, shareholders may have more difficulty in protecting their interests in the face of actions by our management or board of directors than would shareholders of a corporation incorporated in a jurisdiction in the United States, due to the comparatively less developed nature of Cayman Islands law in this area.

Unlike many jurisdictions in the United States, Cayman Islands law does not specifically provide for shareholder appraisal rights on a merger or consolidation of a company. This may make it more difficult for shareholders to assess the value of any consideration they may receive in a merger or consolidation or to require that the offer give shareholders additional consideration if they believe the consideration offered is insufficient.

Shareholders of Cayman Islands exempted companies such as Herbalife have no general rights under Cayman Islands law to inspect corporate records and accounts or to obtain copies of lists of our shareholders. Our directors have discretion under our articles of association to determine whether or not, and under what conditions, our corporate records may be inspected by our shareholders, but are not obliged to make them available to our shareholders. This may make it more difficult for you to obtain the information needed to establish any facts necessary for a shareholder motion or to solicit proxies from other shareholders in connection with a proxy contest.

Subject to limited exceptions, under Cayman Islands law, a minority shareholder may not bring a derivative action against the board of directors. Maples and Calder, our Cayman Islands counsel, has informed us that they are not aware of any reported class action or derivative action having been brought in a Cayman Islands court.

Provisions of our articles of association and Cayman Islands corporate law may impede a takeover or make it more difficult for shareholders to change the direction or management of the Company, which could reduce shareholders' opportunity to influence management of the Company.

Our articles of association permit our board of directors to issue preference shares from time to time, with such rights and preferences as they consider appropriate. Our board of directors could authorize the issuance of preference shares with terms and conditions and under circumstances that could have an effect of discouraging a takeover or other transaction.

In addition, our articles of association contain certain other provisions which could have an effect of discouraging a takeover or other transaction or preventing or making it more difficult for shareholders to change the direction or management of our Company, including a classified board, the inability of shareholders to act by written consent, a limitation on the ability of shareholders to call special meetings of shareholders and advance notice provisions. As a result, our shareholders may have less input into the management of our Company than they might otherwise have if these provisions were not included in our articles of association.

Unlike many jurisdictions in the United States, Cayman Islands law does not provide for mergers as that term is understood under corporate law in the United States. However, Cayman Islands law does have statutory provisions that provide for the reconstruction and amalgamation of companies, which are commonly referred to in the Cayman Islands as "schemes of arrangement." The procedural and legal requirements necessary to consummate these transactions are more rigorous and take longer to complete than the procedures typically required to consummate a merger in the United States. Under Cayman Islands law and practice, a scheme of arrangement in relation to a solvent Cayman Islands company must be approved at a shareholders' meeting by each class of shareholders, in each case, by a majority of the number of holders of each class of a company's shares that are present and voting (either in person or by proxy) at such a meeting, which holders must also represent 75% in value of such class issued that are present and voting (either in person or by proxy) at such meeting (excluding the shares owned by the parties to the scheme of arrangement).

The convening of these meetings and the terms of the amalgamation must also be sanctioned by the Grand Court of the Cayman Islands. Although there is no requirement to seek the consent of the creditors of the parties involved in the scheme of arrangement, the Grand Court typically seeks to ensure that the creditors have consented to the transfer of their liabilities to the surviving entity or that the scheme of arrangement does not otherwise have a material adverse effect on the creditors' interests. Furthermore, the Grand Court will only approve a scheme of arrangement if it is satisfied that:

- the statutory provisions as to majority vote have been complied with;
- the shareholders have been fairly represented at the meeting in question;
- the scheme of arrangement is such as a businessman would reasonably approve; and
- the scheme or arrangement is not one that would more properly be sanctioned under some other provision of the Companies Law.

There is uncertainty as to shareholders' ability to enforce certain foreign civil liabilities in the Cayman Islands.

We are incorporated as an exempted company with limited liability under the laws of the Cayman Islands. A material portion of our assets are located outside of the United States. As a result, it may be difficult for our shareholders to enforce judgments against us or judgments obtained in U.S. courts predicated upon the civil liability provisions of the federal securities laws of the United States or any state of the United States.

We have been advised by our Cayman Islands counsel, Maples and Calder, that although there is no statutory enforcement in the Cayman Islands of judgments obtained in the United States, the courts of the Cayman Islands will — based on the principle that a judgment by a competent foreign court imposes upon the judgment debtor an obligation to pay the sum for which judgment has been given — recognize and enforce a foreign judgment of a court of competent jurisdiction if such judgment is final, for a liquidated sum, not in respect of taxes or a fine or penalty, is not inconsistent with a Cayman Islands judgment in respect of the same matters, and was not obtained in

a manner, and is not of a kind, the enforcement of which is contrary to the public policy of the Cayman Islands. There is doubt, however, as to whether the Grand Court of the Cayman Islands will (1) recognize or enforce judgments of U.S. courts predicated upon the civil liability provisions of the federal securities laws of the United States or any state of the United States, or (2) in original actions brought in the Cayman Islands, impose liabilities predicated upon the civil liability provisions of the federal securities laws of the United States or any state of the United States, on the grounds that such provisions are penal in nature.

The Grand Court of the Cayman Islands may stay proceedings if concurrent proceedings are being brought elsewhere.

Item 2. ***Unregistered Sales of Equity Securities and Use of Proceeds***

(a) None.

(b) None.

(c) We did not repurchase any common shares during the three months ended March 31, 2009. As of March 31, 2009 the approximate dollar value of shares that may yet be purchased under the program was $97.2 million. This share repurchase program expired on April 17, 2009 pursuant to its terms.

Item 3. ***Defaults Upon Senior Securities***

None.

Item 4. ***Submission of Matters to a Vote of Security Holders***

None.

Item 5. ***Other Information***

(a) None.

(b) None.

Item 6. ***Exhibits***

(a) Exhibit Index:

EXHIBIT INDEX

Exhibit Number	Description	Reference
2.1	Agreement and Plan of Merger, dated April 10, 2002, by and among Herbalife International, Inc., WH Holdings (Cayman Islands) Ltd. and WH Acquisition Corp.	(a)
3.1	Form of Amended and Restated Memorandum and Articles of Association of Herbalife Ltd.	(d)
4.1	Form of Share Certificate	(d)
10.1	Form of Indemnity Agreement between Herbalife International Inc. and certain officers and directors of Herbalife International Inc.	(a)
10.2	Office lease agreement between Herbalife International of America Inc. and State Teacher's Retirement System, dated July 11, 1995	(a)
10.3#	Herbalife International of America, Inc.'s Senior Executive Deferred Compensation Plan, effective January 1, 1996, as amended	(a)
10.4#	Herbalife International of America, Inc.'s Management Deferred Compensation Plan, effective January 1, 1996, as amended	(a)
10.5	Master Trust Agreement between Herbalife International of America, Inc. and Imperial Trust Company, Inc., effective January 1, 1996	(a)
10.6#	Herbalife International Inc. 401K Profit Sharing Plan and Trust, as amended	(a)
10.7	Trust Agreement for Herbalife 2001 Executive Retention Plan, effective March 15, 2001	(a)
10.8#	Herbalife 2001 Executive Retention Plan, effective March 15, 2001	(a)
10.9	Notice to Distributors regarding Amendment to Agreements of Distributorship, dated as of July 18, 2002 between Herbalife International, Inc. and each Herbalife Distributor	(a)
10.10	July 31, 2002, by and among WH Holdings (Cayman Islands) Ltd., WH Acquisition Corp., Whitney & Co., LLC, Whitney V, L.P., Whitney Strategic Partners V, L.P., GGC Administration, L.L.C., Golden Gate Private Equity, Inc., CCG Investments (BVI), L.P., CCG Associates-AI, LLC, CCG Investment Fund-AI, LP, CCG AV, LLC-Series C, CCG AV, LLC-Series C, CCG AV, LLC-Series E, CCG Associates-QP, LLC and WH Investments Ltd.	(a)
10.11#	Independent Director's Stock Option Plan of WH Holdings (Cayman Islands) Ltd.	(a)
10.12#	WH Holdings (Cayman Islands) Ltd. Stock Incentive Plan, as restated, dated as of November 5, 2003	(a)
10.13#	Non-Statutory Stock Option Agreement, dated as of April 3, 2003 between WH Holdings (Cayman Islands) Ltd. and Michael O. Johnson	(a)
10.14#	Side Letter Agreement dated as of April 3, 2003 by and among WH Holdings (Cayman Islands) Ltd., Michael O. Johnson and the Shareholders listed therein	(a)
10.15#	Form of Non-Statutory Stock Option Agreement (Non-Executive Agreement)	(a)
10.16#	Form of Non-Statutory Stock Option Agreement (Executive Agreement)	(a)
10.17	Indemnity Agreement, dated as of February 9, 2004, among WH Capital Corporation and Gregory Probert	(a)
10.18	Indemnity Agreement, dated as of February 9, 2004, among WH Capital Corporation and Brett R. Chapman	(a)
10.19	Stock Subscription Agreement of WH Capital Corporation, dated as of February 9, 2004, between WH Capital Corporation and WH Holdings (Cayman Islands) Ltd.	(a)
10.20	First Amendment to Amended and Restated WH Holdings (Cayman Islands) Ltd. Stock Incentive Plan, dated November 5, 2003	(a)
10.21	Registration Rights Agreement, dated as of July 31, 2002, by and among WH Holdings (Cayman Islands) Ltd., Whitney V, L.P., Whitney Strategic Partners V, L.P., WH Investments Ltd., CCG Investments (BVI), L.P., CCG Associates-QP, LLC, CCG Associates-AI, LLC, CCG Investment Fund-AI, L.P., CCG AV, LLC-Series C and CCG AV, LLC-Series E.	(b)

Exhibit Number	Description	Reference
10.22	Share Purchase Agreement, dated as of July 31, 2002, by and among WH Holdings (Cayman Islands) Ltd., Whitney Strategic Partners V, L.P., WH Investments Ltd., Whitney V, L.P., CCG Investments (BVI), L.P., CCG Associates-QP, LLC, CCG Associates-AI, LLC, CCG Investment Fund-AI, LP, CCG AV, LLC-Series C and CCG AV, LLC-Series E.	(b)
10.23	Form of Indemnification Agreement between Herbalife Ltd. and the directors and certain officers of Herbalife Ltd.	(c)
10.24#	Herbalife Ltd. 2004 Stock Incentive Plan, effective December 1, 2004	(c)
10.25	Termination Agreement, dated as of December 1, 2004, between Herbalife Ltd., Herbalife International, Inc. and Whitney & Co., LLC.	(d)
10.26	Termination Agreement, dated as of December 1, 2004, between Herbalife Ltd., Herbalife International Inc. and GGC Administration, L.L.C.	(d)
10.27	Indemnification Agreement, dated as of December 13, 2004, by and among Herbalife Ltd., Herbalife International, Inc., Whitney V, L.P., Whitney Strategic Partners V, L.P., CCG Investments (BVI), L.P., CCG Associates-QP, LLC, CCG Associates-AI, LLC, CCG Investment Fund-AI, LP, CCG AV, LLC-Series C, CCG AV, LLC-Series E, CCG CI, LLC and GGC Administration, LLC.	(d)
10.28#	Amendment No. 1 to Herbalife Ltd. 2004 Stock Incentive Plan	(e)
10.29#	Form of Stock Bonus Award Agreement	(e)
10.30#	Employment Agreement Effective as of January 1, 2005 between Herbalife Ltd. and Henry Burdick	(f)
10.31#	Form of 2004 Herbalife Ltd. 2004 Stock Incentive Plan Stock Option Agreement	(g)
10.32#	Form of 2004 Herbalife Ltd. 2004 Stock Incentive Plan Non-Employee Director Stock Option Agreement	(g)
10.33	Service Agreement by and between Herbalife Europe Limited and Wynne Roberts ESQ, dated as of September 6, 2005	(h)
10.34#	Independent Directors Deferred Compensation and Stock Unit Plan	(i)
10.35#	Independent Directors Stock Unit Award Agreement	(i)
10.36#	Herbalife Ltd. 2005 Stock Incentive Plan	(j)
10.37#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Unit Award Agreement	(k)
10.38#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Appreciation Right Award Agreement	(k)
10.39#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Unit Award Agreement applicable to Mr. Michael O. Johnson	(l)
10.40#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Appreciation Right Award Agreement applicable to Mr. Michael O. Johnson	(l)
10.41#	Amendment to Herbalife Ltd. Independent Directors Deferred Compensation and Stock Unit Plan	(m)
10.42#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Unit Award Agreement applicable to Messrs. Brett R. Chapman and Richard Goudis	(n)
10.43#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Appreciation Right Award Agreement applicable to Messrs. Brett R. Chapman and Richard Goudis	(n)
10.44#	Employment agreement dated December 18, 2007 between Herbalife International of America, Inc. and Paul Noack	(o)
10.45	Form of Credit Agreement, dated as of July 21, 2006, by and among Herbalife International Inc., Herbalife Ltd., WH Intermediate Holdings Ltd., HBL Ltd., WH Luxembourg Holdings S.á.R.L., Herbalife International Luxembourg S.á.R.L., HLF Luxembourg Holdings, S.á.R.L., WH Capital Corporation, WH Luxembourg Intermediate Holdings S.á.R.L., HV Holdings Ltd., Herbalife Distribution Ltd., Herbalife Luxembourg Distribution S.á.R.L., and the Subsidiary Guarantors party thereto in favor of Merrill Lynch Capital Corporation, as Collateral Agent	(p)

Exhibit Number	Description	Reference
10.46	Form of Security Agreement, dated as of July 21, 2006, by and among Herbalife International, Inc., Herbalife Ltd., WH Intermediate Holdings Ltd., HBL Ltd., WH Luxembourg Holdings S.á.R.L., Herbalife International Luxembourg S.á.R.L., HLF Luxembourg Holdings, S.á.R.L., WH Capital Corporation, WH Luxembourg Intermediate Holdings S.á.R.L., HV Holdings Ltd., Herbalife Distribution Ltd., Herbalife Luxembourg Distribution S.á.R.L., and the Subsidiary Guarantors party thereto in favor of Merrill Lynch Capital Corporation, as Collateral Agent	(p)
10.47#	Amended and Restated Independent Directors Deferred Compensation and Stock Unit Plan	(p)
10.48#	Employment Agreement by and between Herbalife Ltd. and Gregory L. Probert dated October 10, 2006	(q)
10.49#	Employment Agreement by and between Herbalife Ltd. and Brett R. Chapman dated October 10, 2006	(q)
10.50#	Stock Unit Agreement by and between Herbalife Ltd. and Brett R. Chapman dated October 10, 2006	(q)
10.51#	Amendment dated October 10, 2006, to Stock Option Agreement by and between Herbalife Ltd. and Brett R. Chapman dated September 1, 2004	(q)
10.52#	Amendment dated October 10, 2006, to Stock Option Agreement by and between Herbalife Ltd. and Brett R. Chapman dated December 1, 2004	(q)
10.53#	Amendment dated October 10, 2006, to Stock Option Agreement by and between Herbalife Ltd. and Brett R. Chapman dated April 27, 2005	(q)
10.54#	Employment Agreement by and between Herbalife Ltd. and Richard P. Goudis dated October 24, 2006	(r)
10.55#	Stock Unit Agreement by and between Herbalife Ltd. and Richard P. Goudis dated October 24, 2006	(r)
10.56#	Amendment dated October 24, 2006, to Stock Option Agreement by and between Herbalife Ltd. and Richard P. Goudis dated June 14, 2004	(r)
10.57#	Amendment dated October 24, 2006, to Stock Option Agreement by and between Herbalife Ltd. and Richard P. Goudis dated September 1, 2004	(r)
10.58#	Amendment dated October 24, 2006, to Stock Option Agreement by and between Herbalife Ltd. and Richard P. Goudis dated December 1, 2004	(r)
10.59#	Amendment dated October 24, 2006, to Stock Option Agreement by and between Herbalife Ltd. and Richard P. Goudis dated April 27, 2005	(r)
10.60#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Unit Award Agreement applicable to Michael O Johnson	(s)
10.61#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Appreciation Right Award Agreement applicable to Michael O. Johnson	(s)
10.62#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Unit Award Agreement applicable to Messrs. Richard P. Goudis and Brett R. Chapman	(s)
10.63#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Appreciation Right Award Agreement applicable to Messrs. Richard P. Goudis and Brett R. Chapman	(s)
10.64#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Unit Award Agreement	(s)
10.65#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Appreciation Right Award Agreement	(s)
10.66	First Amendment dated June 21, 2007, to Form of Credit Agreement, dated as of July 21, 2006, by and among Herbalife International Inc., Herbalife Ltd., WH Intermediate Holdings Ltd., HBL Ltd., WH Luxembourg Holdings S.á.R.L., Herbalife International Luxembourg S.á.R.L., HLF Luxembourg Holdings, S.á.R.L., WH Capital Corporation, WH Luxembourg Intermediate Holdings S.á.R.L., HV Holdings Ltd., Herbalife Distribution Ltd., Herbalife Luxembourg Distribution S.á.R.L., and the Subsidiary Guarantors party thereto in favor of Merrill Lynch Capital Corporation, as Collateral Agent	(t)

Exhibit Number	Description	Reference
10.67	Second Amendment dated September 17, 2007, to Form of Credit Agreement, dated as of July 21, 2006, by and among Herbalife International Inc., Herbalife Ltd., WH Intermediate Holdings Ltd., HBL Ltd., WH Luxembourg Holdings S.á.R.L., Herbalife International Luxembourg S.á.R.L., HLF Luxembourg Holdings, S.á.R.L., WH Capital Corporation, WH Luxembourg Intermediate Holdings S.á.R.L., HV Holdings Ltd., Herbalife Distribution Ltd., Herbalife Luxembourg Distribution S.á.R.L., and the Subsidiary Guarantors party thereto in favor of Merrill Lynch Capital Corporation, as Collateral Agent	(t)
10.68	Third Amendment dated November 30, 2007, to Form of Credit Agreement, dated as of July 21, 2006, by and among Herbalife International Inc., Herbalife Ltd., WH Intermediate Holdings Ltd., HBL Ltd., WH Luxembourg Holdings S.á.R.L., Herbalife International Luxembourg S.á.R.L., HLF Luxembourg Holdings, S.á.R.L., WH Capital Corporation, WH Luxembourg Intermediate Holdings S.á.R.L., HV Holdings Ltd., Herbalife Distribution Ltd., Herbalife Luxembourg Distribution S.á.R.L., and the Subsidiary Guarantors party thereto in favor of Merrill Lynch Capital Corporation, as Collateral Agent	(u)
10.69#	Herbalife Ltd. Employee Stock Purchase Plan	(u)
10.70	Fourth Amendment dated February 21, 2008, to Form of Credit Agreement, dated as of July 21, 2006, by and among Herbalife International Inc., Herbalife Ltd., WH Intermediate Holdings Ltd., HBL Ltd., WH Luxembourg Holdings S.á.R.L., Herbalife International Luxembourg S.á.R.L., HLF Luxembourg Holdings, S.á.R.L., WH Capital Corporation, WH Luxembourg Intermediate Holdings S.á.R.L., HV Holdings Ltd., Herbalife Distribution Ltd., Herbalife Luxembourg Distribution S.á.R.L., and the Subsidiary Guarantors party thereto in favor of Merrill Lynch Capital Corporation, as Collateral Agent	(u)
10.71#	Employment Agreement dated as of March 27, 2008 between Michael O. Johnson and Herbalife International of America, Inc.	(v)
10.72#	Stock Unit Award Agreement by and between Herbalife Ltd. and Michael O. Johnson, dated March 27, 2008.	(v)
10.73#	Stock Appreciation Right Award Agreement by and between Herbalife Ltd. and Michael O. Johnson, dated March 27, 2008.	(v)
10.74#	Stock Appreciation Right Award Agreement by and between Herbalife Ltd. and Michael O. Johnson, dated March 27, 2008.	(v)
10.75#	Amendment No. 1 to Employment Agreement dated as of April 4, 2008 between Gregory L. Probert and Herbalife International of America, Inc.	(w)
10.76	Fifth Amendment dated September 25, 2008, to Form of Credit Agreement, dated as of July 21, 2006, by and among Herbalife International Inc., Herbalife Ltd., WH Intermediate Holdings Ltd., HBL Ltd., WH Luxembourg Holdings S.á.R.L., Herbalife International Luxembourg S.á.R.L., HLF Luxembourg Holdings, S.á.R.L., WH Capital Corporation, WH Luxembourg Intermediate Holdings S.á.R.L., HV Holdings Ltd., Herbalife Distribution Ltd., Herbalife Luxembourg Distribution S.á.R.L., and the Subsidiary Guarantors party thereto in favor of Merrill Lynch Capital Corporation, as Collateral Agent	(x)
10.77#	Amendment to Herbalife International Inc. 401K Profit Sharing Plan and Trust	*
10.78#	Amendment to Amended and Restated Independent Directors Deferred Compensation and Stock Unit Plan	*
10.79#	Form of Independent Directors Stock Appreciation Right Award Agreement	*
31.1	Rule 13a-14(a) Certification of Chief Executive Officer	*
31.2	Rule 13a-14(a) Certification of Chief Financial Officer	*
32.1	Section 1350 Certification of Chief Executive Officer and Chief Financial Officer	*

* Filed herewith.

\# Management contract or compensatory plan or arrangement.

(a) Previously filed on October 1, 2004 as an Exhibit to the Company's registration statement on Form S-1 (File No. 333-119485) and is incorporated herein by reference.

(b) Previously filed on November 9, 2004 as an Exhibit to Amendment No. 2 to the Company's registration statement on Form S-1 (File No. 333-119485) and is incorporated herein by reference.
(c) Previously filed on December 2, 2004 as an Exhibit to Amendment No. 4 to the Company's registration statement on Form S-1 (File No. 333-119485) and is incorporated herein by reference.
(d) Previously filed on December 14, 2004 as an Exhibit to Amendment No. 5 to the Company's registration statement on Form S-1 (File No. 333-119485) and is incorporated herein by reference.
(e) Previously filed on February 17, 2005 as an Exhibit to the Company's registration statement on Form S-8 (File No. 333-122871) and is incorporated herein by reference.
(f) Previously filed on May 13, 2005 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.
(g) Previously filed on June 14, 2005 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.
(h) Previously filed on September 23, 2005 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.
(i) Previously filed on February 28, 2006 as an Exhibit to the Company's Annual Report on Form 10-K for the year ended December 31, 2005 and is incorporated herein by reference.
(j) Previously filed on November 22, 2005 as an Exhibit to the Company's registration statement on Form S-8 (File No. 129885).
(k) Previously filed on March 29, 2006 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.
(l) Previously filed on March 29, 2006 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.
(m) Previously filed on March 30, 2006 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.
(n) Previously filed on March 31, 2006 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.
(o) Previously filed on December 20, 2007 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.
(p) Previously filed on November 13, 2006 as an Exhibit to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2006 and is incorporated by reference.
(q) Previously filed on October 12, 2006 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.
(r) Previously filed on October 26, 2006 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.
(s) Previously filed on May 29, 2007 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.
(t) Previously filed on November 6, 2007 as an Exhibit to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2007 and is incorporated by reference.
(u) Previously filed on February 26, 2008 as an Exhibit to the Company's Annual Report on Form 10-K for the year ended December 31, 2007 and is incorporated herein by reference.
(v) Previously filed on April 7, 2008 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.
(w) Previously filed on April 9, 2008 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.
(x) Previously filed on November 3, 2008 as an Exhibit to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2008 and is incorporated by reference.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

HERBALIFE LTD.

By: /s/ Richard Goudis
Richard Goudis
Chief Financial Officer

Dated: May 4, 2009

Qualified Automatic Contribution Arrangement, Qualified Default Investment Alternative and Maximum Elective Deferral Amendment

Section 1. **General Information and General Provisions**

1.1 **Plan Name: Herbalife International of America, Inc. Employees' 401(k) Profit Sharing Plan** (the "Plan").

1.2 **Plan Sponsor: Herbalife International of America, Inc.** (the "Sponsoring Employer").

1.3 **Enactment Date.** This Amendment is entered into as of January 1, 2009, by the Sponsoring Employer.

1.4 **Supersedure.** This Amendment supersedes any conflicting provisions of the Plan, any administrative policy regarding Elective Deferrals, and/or the Plan's funding policy. Furthermore, this Amendment supersedes any State (or Commonwealth) law that would directly or indirectly prohibit or restrict the inclusion of an Automatic Contribution Arrangement in the Plan, pursuant to ERISA §514(e)(1) and Department of Labor Regulation §2550.404c–5(f).

1.5 **Good Faith Compliance.** This document is an Amendment to the Plan, any administrative policy regarding Elective Deferrals, and/or the Plan's funding policy; is intended as good faith compliance with all current guidance with respect to Automatic Contribution Arrangements; and will incorporate any subsequent guidance with respect to Automatic Contribution Arrangements, even to the extent that such subsequent guidance would modify the terms of this Amendment.

Section 2. **Characteristic of Elective Deferrals**

2.1 **Characteristic of Elective Deferrals.** The Elective Deferrals that are withheld under the Automatic Contribution Arrangement will be treated as follows:

☑ **Entirely Pre-Tax.** All of the Elective Deferrals will be Pre-Tax Elective Deferrals.

☐ **Entirely Roth.** All of the Elective Deferrals will be Roth Elective Deferrals.

☐ **A Portion Pre-Tax and a Portion Roth.** ___% of the Elective Deferrals will be Pre-Tax Elective Deferrals; ___% of the Elective Deferrals will be Roth Elective Deferrals.

Section 3. **Eligible Participants**

3.1 **Eligible Participants.** The following classes of participants are Eligible Participants and will be subject to the Automatic Contribution Arrangement:

☑ **New Participants.** New participants who are eligible to make Elective Deferrals and who are entering the Elective Deferral component of the Plan.

☑ **Participants Who Did Not Return Election.** Participants in the Elective Deferral component of the Plan who have not returned an election form with respect to Elective Deferrals.

☑ **Participants Who Elected Zero Rate of Deferrals before November 12, 2008.** Participants in the Elective Deferral component of the Plan who have elected not to have Elective Deferrals made on their behalf **except for** (a) participants precluded from deferring due to financial hardship distribution rules and (b) participants who have been previously automatically enrolled that have affirmatively elected not to have Elective Deferrals made on their behalf.

☐ **Participants Who Elected Lower Rate of**

Deferrals. Participants in the Elective Deferral component of the Plan whose contribution rate of their Elective Deferrals are less than the applicable Automatic Contribution Percentage or Qualified Percentage as of the Effective Date of the Automatic Contribution Arrangement.

☐ **Other** _____.

Section 4. **Duration/Expiration of Automatic Contribution Overriding Election**

4.1 **Duration/Expiration of Automatic Contribution Overriding Election.** An Eligible Participant's Automatic Contribution Overriding Election shall expire in accordance with the following provisions:

(a) ☑ **Election Does Not Expire.** The Automatic Contribution Overriding Election will not expire, but will remain in force until changed by the Eligible Participant. An Eligible Participant need not execute a subsequent Automatic Contribution Overriding Election in order to have the prior Automatic Contribution Overriding Election apply to the Automatic Contribution Percentage or Qualified Percentage of a subsequent Plan Year. Any subsequent change to the Automatic Contribution Overriding Election will be made in accordance with the terms and conditions of the Plan relating to the modification of Elective Deferrals.

(b) ☐ **Election Expires.** If a Eligible Participant's Automatic Contribution Overriding Election reduces the contribution rate of his or her Elective Deferrals to a level that is less than the Automatic Contribution Percentage or Qualified Percentage that is in effect as of the date selected below, then such Eligible Participant's Automatic Contribution Overriding Election will expire as of:

☐ The first day of each Plan Year.

☐ Each anniversary date of an Eligible Participant's Entry Date into the Elective Deferral component of the Plan.

☐ Other: _____.

4.2 **Eligible Participants Affected by Expiration of Automatic Contribution Overriding Election.** If Section 4.1(b) is checked, then Section 4.1(b) shall apply to the following Eligible Participants:

☐ **Zero Contribution Rate.** Any Eligible Participant who has elected pursuant to his or her Automatic Contribution Overriding Election not to have Elective Deferrals made on their behalf and whose contribution rate of his or her Elective Deferrals is zero as of the expiration date of Section 4.1(b).

☐ **Lower Contribution Rate.** Any Eligible Participant who has elected pursuant to his or her Automatic Contribution Overriding Election to have a contribution rate of his or her Elective Deferrals that is less than the applicable Automatic Contribution Percentage or Qualified Percentage as of the expiration date of Section 4.1(b).

☐ Other: _____.

4.3 **Reenrollment.** If Section 4.1(b) is checked, then to the extent that any Eligible Participant's Automatic Contribution Overriding Election expires in accordance with Section 4.1(b), any Eligible Participant as set forth in Section 4.2 will be reenrolled in the Automatic Contribution Arrangement at the Automatic Contribution Percentage or Qualified Percentage that applies to such Eligible Participant as of the expiration date of Section 4.1(b).

Section 5. **Type of Automatic Contribution Arrangement**

5.1 **Type of Automatic Contribution Arrangement.** The type of Automatic Contribution Arrangement which this Amendment reflects is as follows:

(a) ☑ **Qualified Automatic Contribution Arrangement.** The Automatic Contribution Arrangement is a Qualified Automatic Contribution Arrangement as

described in PPA §902(a), which added Code §401(k)(13).

(b) ☐ **Eligible Automatic Contribution Arrangement.** The Automatic Contribution Arrangement is an Eligible Automatic Contribution Arrangement as described in PPA §902(d), which added Code §414(w).

(c) ☐ **Traditional Automatic Contribution Arrangement.** The Automatic Contribution Arrangement does not incorporate the provisions set forth in PPA§902.

Section 6. **Qualified Automatic Contribution Arrangement**

6.1 ☐ **Not Applicable.** The Plan does not include a Qualified Automatic Contribution Arrangement.

6.2 ☑ **Effective Date.** The Qualified Automatic Contribution Arrangement is effective January 1, 2009.

6.3 **Initial Qualified Percentage.** If Section 6.2 is checked, then an Eligible Participant will be treated as having elected to have the Employer make Elective Deferrals to the Plan in an amount equal to **3%** of Compensation as the Qualified Percentage in the first Applicable Plan Year.

6.4 **Qualified Percentage for Subsequent Applicable Plan Years.** If Section 6.2 is checked, then an Eligible Participant will be treated as having elected to have the Employer make Elective Deferrals to the Plan in the amounts equal to the following percentages of Compensation as the Qualified Percentages in subsequent Applicable Plan Years after the first Applicable Plan Year:

4% of Compensation as the Qualified Percentage in the second Applicable Plan Year.

5% of Compensation as the Qualified Percentage in the third Applicable Plan Year.

6% of Compensation as the Qualified Percentage in any subsequent Applicable Plan Year after the third Applicable Plan Year.

6.5 **Non-Elective Contribution or Matching Contribution Requirement.** If Section 6.2 is checked, then the Employer will make the following contribution:

(a) ☐ **Non-Elective Contribution.** The Employer will make a non-elective contribution equal to at least 3% of Compensation. Such non-elective contribution will be made on behalf of:

☐ Any participant in the Elective Deferral component of the Plan who is a non-highly compensated employee, regardless of whether such participant makes Elective Deferrals or after-tax employee contributions.

☐ Any participant in the Elective Deferral component of the Plan, regardless of whether such participant makes Elective Deferrals or after-tax employee contributions.

☐ Other: _____.

(b) ☑ **Matching Contribution.**

(1) The Employer will make a matching contribution equal to either:

☑ **Basic Matching Contribution.** The sum of (1) 100% of a participant's Elective Deferrals that do not exceed 1% of Compensation;

plus (2) 50% of such participant's Elective Deferrals that exceed 1% of Compensation but do not exceed 6% of Compensation.

☐ **Enhanced Matching Contribution.** The sum of (1) 100% of the participant's Elective Deferrals that do not exceed ___% of Compensation; plus, if applicable, (2) ___% of the participant's Elective Deferrals that exceed ___% of Compensation but do not exceed ___%.

(2) If Section 6.5(b) is checked, then such matching contribution will be made on behalf of:

☐ Any participant in the Elective Deferral component of the Plan who is a non-highly compensated employee and who makes Elective Deferrals.

☑ Any participant in the Elective Deferral component of the Plan who makes Elective Deferrals.

☐ Other: _____.

(3) If Section 6.5(b) is checked, then the ratio of such matching contributions to Elective Deferrals of a participant who is a highly compensated employee must not exceed the ratio of such matching contributions to Elective Deferrals of any participant who is a non-highly compensated employee with Elective Deferrals at the same percentage of Compensation as any highly compensated employee. Furthermore, the ratio of a participant's matching contributions to the participant's Elective Deferrals may not increase as the amount of a participant's Elective Deferrals increases.

(c) **Plan to Which Contribution Will Be Made.** The non-elective contribution of Section 6.5(a) or the matching contribution of Section 6.5(b) will be made to:

☑ This Plan.

☐ The following plan, so long as the plan meets the requirements of Code §401(k)(12)(F) and the Treasury Regulations thereunder: _____.

(d) **Compensation.** The term "Compensation" means, for purposes of the non-elective contribution of Section 6.5(a) or the matching contribution of Section 6.5(b), the following:

(1) **Definition.** Compensation is defined as:

☑ Form W-2 compensation

☐ Code §3401 compensation

☐ Code §415 safe harbor compensation

(2) **Non-taxable Amounts.** Non-taxable amounts under Code §125, §132(f)(4), §401(k), §402(h), §403(b), §457(b) and §414(h)(2) will:

☑ Be included as Compensation

☐ Not be included as Compensation

(3) **Compensation Measuring Period.** The Compensation measuring period is the:

☑ Plan Year

☐ Fiscal year ending on or within the Plan Year

☐ Calendar year ending on or within the Plan Year

(4) ☑ **Exclusions.** The following categories of remuneration will not be counted as Compensation:

☐ Compensation received prior to becoming a participant

☐ Compensation received while an ineligible employee

☑ All items in Treasury Regulation §1.414(s)-1(c)(3) *(i.e., expense allowances, fringe benefit, moving expenses, etc.)*

☐ Post-severance compensation

☐ Deemed 125 compensation

☑ Bonuses

☐ Overtime

☐ Commissions

☐ Other _____

(5) **Compensation must comply with Code §414(s).** Compensation for purposes of the non-elective contribution of Section 6.5(a) or the matching contribution of Section 6.5(b) must qualify as a nondiscriminatory definition of compensation under Code §414(s) and the Treasury Regulations thereunder.

(e) Contribution Subject to Withdrawal Restrictions. The non-elective contribution of Section 6.5(a) or the matching contribution of Section 6.5(b) is subject to the withdrawal restrictions set forth in Code §401(k)(2)(B) and Treasury Regulation §1.401(k)-1(d).

(f) Contribution Must Not Be Used for Permitted Disparity Purposes. The non-elective contribution of Section 6.5(a) or the matching contribution of Section 6.5(b) will be met without regard to Code §401(l), and, for purposes of Code §401(l), the non-elective contribution of Section 6.5(a) or the matching contribution of Section 6.5(b) will not be taken into account.

6.6 Vesting Schedule. If Section 6.2 is checked, then a participant's sub-account that holds the non-elective contribution of Section 6.5(a) or the matching contribution of Section 6.5(b) will be subject to the following vesting schedule:

(a) ☐ **100% Full and Immediate Vesting.** A participant's sub-account will be 100% fully and immediately vested.

(b) ☑ **2-Year Cliff Vesting Schedule.**

1 Year of Vesting Service	0% Vested
2 Years of Vesting Service	100% Vested

(c) ☐ **Modified 2-Year Cliff Vesting Schedule.**

1 Year of Vesting Service	_____% Vested
2 Years of Vesting Service	100% Vested

6.7 Usage of Forfeitures. If Section 6.2 and either Section 6.6(b) or 6.6(c) are checked, then with respect to any forfeiture of the non-vested interest in a participant's sub-account that contains the non-elective contribution of Section 6.5(a) or the matching contribution of Section 6.5(b), the Administrator may elect to use all or any portion of the forfeitures to pay administrative expenses incurred by the Plan. Forfeitures that are not used to pay administrative expenses will be used first to restore previous forfeitures of participants' accounts as necessary and permitted pursuant to the provisions of the Plan. Forfeitures that are not used to pay administrative expenses and are not used to satisfy the provisions of the previous sentence will then be allocated/used:

☐ **Not Applicable.** Section 6.6(a) is checked; the participant's sub-account that contains the non-elective contribution of Section 6.5(a) and/or the matching contribution of Section 6.5(b), as applicable, will be 100% fully and immediately vested, and forfeiture of such sub-account will not occur.

☑ **Forfeitures Used to Reduce Any Employer Contributions.** Forfeitures will be used to reduce any Employer contributions.

☐ **Forfeitures Added to Any Employer Contributions.** Forfeitures will be added to any Employer contributions and will be allocated pursuant to the terms of the Plan.

☐ **Other:**

6.8 Exemption from ADP Test. If Section 6.2 is checked, then notwithstanding anything in the Plan to the contrary, the Plan will be treated as meeting the ADP test as set forth in Code §401(k)(3)(A)(ii) in any Plan Year in which the Plan includes a Qualified Automatic Contribution Arrangement pursuant to PPA §902(a), which added Code §401(k)(13)(A).

6.9 Limited Exemption from ACP Test. If Section 6.2 is checked, then notwithstanding anything in the Plan to the contrary, the Plan shall be treated as having satisfied the ACP test as set forth in Code §401(m)(2) only with respect to the matching contribution set forth in Section 6.5(b) in any Plan Year in which the Plan includes a Qualified Automatic Contribution Arrangement pursuant to PPA §902(b), which revised Code §401(m)(12).

6.10 Limited Exemption from Top Heavy. If Section 6.2 is checked, then notwithstanding anything in the Plan to the contrary, in any Plan Year in which the Plan consists solely of: (a) Elective Deferrals under a Qualified Automatic Contribution Arrangement which meets the requirements of Code §401(k)(13) as set forth in Sections 6.3 and 6.4; and (b) Employer contributions consisting of either (1) non-elective contributions which meet the requirements of Code §401(k)(13) as set forth in Section 6.5(a), or (2) matching contributions which meet the requirements of Code §401(m)(12) as set for the in Section 6.5(b), then such Plan will not be treated as a top heavy Plan and will be exempt from the top heavy requirements of Code §416. Furthermore, if the Plan (but for the prior sentence) would be treated as a top heavy Plan because the Plan is a member of an aggregation group which is a top heavy group, then the contributions under the Plan may be taken into account in determining whether any other plan in the aggregation group meets the top heavy requirements of Code §416.

Section 7. Elimination/Modification of Non-Safe Harbor Contribution Provisions

7.1 ☐ **Not Applicable.** The Plan does not have or does not make any Employer contributions to a non-safe harbor matching contribution component or a non-safe harbor non-elective contribution component of the Plan.

7.2 ☐ **Not Applicable.** The Plan's existing non-safe harbor matching contribution component and/or non-safe harbor non-elective contribution component are being retained.

7.3 ☑ **Effective Date.** Notwithstanding the Effective Date of the Automatic Contribution Arrangement, the provisions set forth in this Section 7 are effective as of January 1, 2009.

7.4 Type of Employer Contributions Being Eliminated. If Section 7.3 is checked, then by executing this Amendment:

☐ **Not Applicable.** No Employer contributions and related allocations will cease or will be eliminated.

☑ **Employer Contributions and Related Allocations.** The following Employer contributions (except for receivables) and related allocations will cease and will be eliminated as of the Effective Date set forth in Section 7.3:

☑ **Matching Contributions.** Non-safe harbor matching contributions.

☐ **Non-Elective Contributions.** Non-safe harbor non-elective contributions.

7.5 Modification/Addition of Employer Contributions. If Section 7.3 is checked, then by executing this Amendment, the following Employer contributions and related allocations are modified and/or added as of the Effective Date set forth in Section 7.3, in accordance with the following provisions:

☐ **Not Applicable.** No Employer contributions and related allocations (other than the elimination of those Employer contributions and related allocations of Section 7.4) are being modified and/or added.

☑ **Modification/Addition.** 75% of pay is the maximum Employee Elective Deferral Contribution.

Section 8. **Default Investment**

8.1 **Default Investment.** If a participant or beneficiary has the opportunity to direct the investment of the assets in his or her account (but does not direct the investment of such assets), then such assets in his or her account will be invested as follows:

(a) ☐ **Not Applicable.** Participants and/or beneficiaries are not permitted to direct the investment of the assets in their accounts; the Plan's trustee or investment manager makes the investment decisions with respect to the Plan's assets.

(b) ☑ **Qualified Default Investment Alternative.** The assets in his or her account will be invested in a Qualified Default Investment Alternative.

(c) ☐ **Non-Qualified Default Investment Alternative.** The assets in his or her account will subject to the following provisions:

(1) **Type of Investment.** The assets in his or her account will be invested in:

☐ A selected "default investment" which is expected to produce a favorable rate of return and which minimizes the overall risk of losing money.

☐ Other: _____.

(2) **Transfer from the Non-Qualified Default Investment Alternative.** Transfers by participants from the non-qualified default investment alternative will be permitted on the following date(s) of the Plan Year:

_____
.

8.2 **Transfer from Qualified Default Investment Alternative.** If Section 8.1(b) is checked, then any participant or beneficiary on whose behalf assets are invested in a Qualified Default Investment Alternative may transfer, in whole or in part, such assets to any other investment alternative available under the Plan with a frequency consistent with that afforded to a participant or beneficiary who elected to invest in the Qualified Default Investment Alternative, but not less frequently than once within any 3-month period.

(a) **No Fees during First 90 Days.** Any participant's or beneficiary's election to make such transfer during the 90 day period beginning on the date of the first elective deferral or first investment in a Qualified Default Investment Alternative will not be subject to any restrictions, fees or expenses (including surrender charges, liquidation or exchange fees, redemption fees and similar expenses charged in connection with the liquidation of, or transfer from, the investment), except as permitted in Department of Labor Regulation §2550.404c–5(c)(5)(ii)(B).

(b) **Limited Fees after First 90 Days.** Following the end of the 90-day period described in paragraph (a), any transfer from the Qualified Default Investment Alternative will not be subject to any restrictions, fees or expenses not otherwise applicable to a participant or beneficiary who elected to invest in that Qualified Default Investment Alternative.

8.3 **Broad Range of Investment Alternatives.** If Section 8.1(b) is checked, then the Plan must offer a ''broad range of investment alternatives'' within the meaning of Department of Labor Regulation §2550.404c–1(b)(3).

8.4 **Materials Must Be Provided.** If Section 8.1(b) is checked, then a fiduciary must provide to a participant or beneficiary the materials set forth in Department of Labor Regulation §2550.404c-1(b)(2)(i)(B)(1)(viii) and (ix) and Department of Labor Regulation §404c-1(b)(2)(i)(B)(2) relating to a participant's or beneficiary's investment in a Qualified Default Investment Alternative.

Section 9. **Notice Requirements**

9.1 Content and Timing of Notice for Automatic Contribution Arrangement. Within a reasonable period before the beginning of each Plan Year, Eligible Participants to whom the Automatic Contribution Arrangement applies for such Plan Year must receive a sufficiently accurate and comprehensive written notice of their rights and obligations under the Automatic Contribution Arrangement. Such notice will be written in a manner calculated to be understood by the average Eligible Participant to whom the Automatic Contribution Arrangement applies. The notice must explain (a) under the Automatic Contribution Arrangement, the Eligible Participant's right pursuant to a Automatic Contribution Overriding Election to elect either (1) not to have Elective Deferrals made on the Eligible Participant's behalf, or (2) to have Elective Deferrals made at a different percentage; and (b) how contributions made under the Automatic Contribution Arrangement will be invested in the absence of any investment election by the Eligible Participant (the default investment(s)). After receipt of the notice described in this paragraph, any Eligible Participant to whom the Automatic Contribution Arrangement relates must have a reasonable period of time before the first Elective Deferral is made to exercise the rights set forth within the notice including, but not limited to, executing an Automatic Contribution Overriding Election.

9.2 Content and Timing of Notice for Qualified Default Investment Alternative. If Section 8.1(b) is checked, then the following provisions apply to the notice required by a Qualified Default Investment Alternative:

(a) **Manner.** Such notice will be written in a manner calculated to be understood by the average Plan participant.

(b) **Content.** Such notice will contain the following:

(1) A description of the circumstances under which assets in the individual account of a participant or beneficiary may be invested on behalf of the participant or beneficiary in a Qualified Default Investment Alternative; and, if applicable, an explanation of the circumstances under which Elective Deferrals will be made on behalf of a participant, the percentage of such Elective Deferrals, and the right of the participant to elect not to have such Elective Deferrals made on the participant's behalf (or to elect to have such Elective Deferrals made at a different percentage);

(2) An explanation of the right of participants and beneficiaries to direct the investment of assets in their individual accounts;

(3) A description of the Qualified Default Investment Alternative, including a description of the investment objectives, risk and return characteristics (if applicable), and fees and expenses attendant to the Qualified Default Investment Alternative;

(4) A description of the right of the participants and beneficiaries on whose behalf assets are invested in a Qualified Default Investment Alternative to direct the investment of those assets to any other investment alternative under the Plan, including a description of any applicable restrictions, fees or expenses in connection with such transfer; and

(5) An explanation of where the participants and beneficiaries can obtain investment information concerning the other investment alternatives available under the Plan.

(c) **Timing.** The participant or beneficiary on whose behalf an investment in a Qualified Default Investment Alternative may be made must be furnished such notice during the following periods:

(1) Either:

(A) At least 30 days in advance of the participant's Entry Date of the Elective Deferral component of the Plan (or such other component of the Plan in which a participant's account may be invested in a Qualified Default Investment Alternative), or at least 30 days in advance of the date of any first investment in a Qualified Default Investment Alternative on behalf of a participant or beneficiary; or

(B) If the Plan is an Eligible Automatic Contribution Arrangement and the participant has the opportunity to receive a Permissible Withdrawal, on or before the participant's Entry Date of the Elective Deferral component of the Plan; and

(2) Within a reasonable period of time of at least 30 days in advance of each subsequent Plan Year;

Section 10. **Definitions**

10.1 **Applicable Plan Year.** The term "Applicable Plan Year" means, for purposes of determining the Qualified Percentage that applies to a specific Eligible Participant, a specific Plan Year. The first Applicable Plan Year is the Plan Year that contains the date upon which an Eligible Participant could first have had Elective Deferrals withheld under the Qualified Automatic Contribution Arrangement, regardless of whether the Eligible Participant executes an Automatic Contribution Overriding Election. Subsequent Applicable Plan Years are based upon the number of Plan Years after the first Applicable Plan Year, regardless of whether the Eligible Participant executes an Automatic Contribution Overriding Election.

10.2 **Automatic Contribution Arrangement**. The term "Automatic Contribution Arrangement" means any arrangement under which (a) a participant may elect to have the Employer make payments as Elective Deferrals under the Plan on his or her behalf, or to receive such payments directly in cash, and (b) an Eligible Participant is treated as having elected to have the Employer make Elective Deferrals to the Plan, in an amount equal to a uniform percentage of Compensation until such Eligible Participant executes an Automatic Contribution Overriding Election; such percentage may be set forth in either this Amendment or such other Plan documentation as permitted by law. An Automatic Contribution Arrangement includes a Qualified Automatic Contribution Arrangement, an Eligible Automatic Contribution Arrangement, or a Traditional Automatic Contribution Arrangement, as applicable.

10.3 **Automatic Contribution Percentage**. The term "Automatic Contribution Percentage" means, with respect to an Eligible Automatic Contribution Arrangement or a Traditional Automatic Contribution Arrangement, as applicable, the percent of Compensation that an Eligible Participant is treated as having elected to have the Employer make as Elective Deferrals to the Plan, as set forth in this Amendment or such other Plan documentation as permitted by law.

10.4 **Automatic Contribution Overriding Election**. The term "Automatic Contribution Overriding Election" means an affirmative election by an Eligible Participant to override the Automatic Contribution Percentage or Qualified Percentage that is applicable to such Eligible Participant. The Automatic Contribution Overriding Election will provide either (a) to not have Elective Deferrals made under the Automatic Contribution Arrangement, or (b) to have Elective Deferrals made at a percentage of Compensation different than the Automatic Contribution Percentage or Qualified Percentage, at the percentage of Compensation specified in the Automatic Contribution Overriding Election.

10.5 **Compensation.** The term "Compensation" means, except for purposes of the non-elective contribution of Section 6.5(a) or the matching contribution of Section 6.5(b), compensation as defined in the Plan for the component or the purpose for which the compensation relates. However, if the Plan is a Qualified Automatic Contribution Arrangement, then the term "Compensation" means, for purposes of the non-elective contribution of Section 6.5(a) or the matching contribution of Section 6.5(b), compensation as defined in Section 6.5(d).

10.6 **Effective Date of the Automatic Contribution Arrangement.** The term "Effective Date of the Automatic Contribution Arrangement" means the effective date set forth in Section 6.2.

10.7 **Eligible Automatic Contribution Arrangement**. The term "Eligible Automatic Contribution Arrangement" means an Automatic Contribution Arrangement that meets all of the requirements of Code §414(w)(3) including, but limited to, a Qualified Default Investment Alternative and the applicable notice requirements.

10.8 **Elective Deferral.** The term "Elective Deferral" means an Employer contribution as described in Code §402(g)(3).

10.9 **Eligible Participant.** The term "Eligible Participant" means a participant in the Plan subject to the Automatic Contribution Arrangement.

10.10 **Employer.** The term "Employer" shall mean the Sponsoring Employer as set forth in Section 1.2, and any other entity that adopts the Plan.

10.11 **Entry Date**. The term "Entry Date" means the date or dates on which an employee who is eligible to participate in the Elective Deferral component of the Plan becomes a participant in such component of the Plan, or, if applicable, the date or dates on which an employee who is eligible

to participate in another component of the Plan becomes a participant in such other component of the Plan.

10.12 Excess Aggregate Contributions. The term "Excess Aggregate Contributions" means amounts as described in Code §4979(d).

10.13 Excess Contributions. The term "Excess Contributions" means amounts as described in Code §4979(c).

10.14 Permissible Withdrawal. The term "Permissible Withdrawal" means any withdrawal from an Eligible Automatic Contribution Arrangement which meets the following requirements:

(a) **Employee's Election and Timing.** The distribution is made pursuant to an election by an Eligible Participant, and such election is made no later than 90 days after the date of the first Elective Deferral with respect to the Eligible Participant under the Eligible Automatic Contribution Arrangement;

(b) **Only Elective Deferrals and Earnings.** The distribution consists of only Elective Deferrals (and earnings attributable thereto);

(c) **Amount of Distribution.** The amount of the distribution is equal to the amount of Elective Deferrals made with respect to the first payroll period to which the Eligible Automatic Contribution Arrangement applies to the Eligible Participant and any succeeding payroll period beginning before the effective date of the election pursuant to paragraph (a) (and earnings attributable thereto).

10.15 Plan Year. The term "Plan Year" means computation period as set forth in the Plan document.

10.16 PPA. The term "PPA" means the Pension Protection Act of 2006.

10.17 Pre-Tax Elective Deferral. The term "Pre-Tax Elective Deferral" means an Elective Deferral that is not includible in the participant's gross income at the time that the Elective Deferral is deferred.

10.18 Qualified Automatic Contribution Arrangement. The term "Qualified Automatic Contribution Arrangement" means an Automatic Contribution Arrangement that meets all of the requirements set forth in Code §401(k)(13)(B) including, but not limited to, the applicable Qualified Percentage for the Applicable Plan Year, the required Employer contributions of the non-elective contributions of Section 6.5(a) or the matching contributions of Section 6.5(b), and the applicable notice requirements.

10.19 Qualified Default Investment Alternative. The term "Qualified Default Investment Alternative" means an investment alternative available to participants and beneficiaries, subject to the following rules:

(a) **No Employer Securities.** The Qualified Default Investment Alternative does not hold or permit the acquisition of Employer securities, except as permitted by Department of Labor Regulation §2550.404c–5(e)(1)(ii);

(b) **Transfer Permitted.** The Qualified Default Investment Alternative permits a participant or beneficiary to transfer, in whole or in part, his or her investment from the Qualified Default Investment Alternative to any other investment alternative available under the Plan, pursuant to the rules of Department of Labor Regulation §2550.404c–5(c)(5);

(c) **Management.** The Qualified Default Investment Alternative is:

(1) Managed by: (A) an investment manager, within the meaning of ERISA §3(38); (B) a Plan trustee that meets the requirements of ERISA §3(38)(A), (B) and (C); or (C) the Sponsor Employer who is a named fiduciary within the meaning of ERISA §402(a)(2);

(2) An investment company registered under the Investment Company Act of 1940; or

(3) An investment product or fund described in Department of Labor Regulation §2550.404c–5(e)(4)(iv) or (v); and

(d) **Types of Permitted Investments.** The Qualified Default Investment Alternative is one of the following:

(1) An investment fund product or model portfolio that applies generally accepted investment theories, is diversified so as to minimize the risk of large losses and that is designed to provide varying degrees of long-term appreciation and capital preservation through a mix of equity and fixed income exposures based on the participant's age, target retirement date (such as normal retirement age under the Plan) or life expectancy, but is not required to take into account risk tolerances, investments or other preferences of an individual participant or beneficiary.

(2) An investment fund product or model portfolio that applies generally accepted investment theories, is diversified so as to minimize the risk of large losses and that is designed to provide long-term appreciation and capital preservation through a mix of equity and fixed income exposures consistent with a target level of risk appropriate for participants of the Plan as a whole, but is not required to take into account the age, risk tolerances, investments or other preferences of an individual participant or beneficiary.

(3) An investment management service with respect to which a fiduciary, within the meaning of Department of Labor Regulation §2550.404c–5(e)(3)(i), applying generally accepted investment theories, allocates the assets of a participant's individual account to achieve varying degrees of long-term appreciation and capital preservation through a mix of equity and fixed income exposures, offered through investment alternatives available under the plan, based on the participant's age, target retirement date (such as normal retirement age under the Plan) or life expectancy, but is not required to take into account risk tolerances, investments or other preferences of an individual participant.

(4) An investment product or fund designed to preserve principal and provide a reasonable rate of return, whether or not such return is guaranteed, consistent with liquidity. Such investment product shall: (A) Seek to maintain, over the term of the investment, the dollar value that is equal to the amount invested in the product; and (B) Be offered by a State or federally regulated financial institution. Such investment product or fund described in this paragraph shall constitute a Qualified Default Investment Alternative for not more than 120 days after the date of the participant's first Elective Deferral as determined under Code §414(w)(2)(B) or other first investment.

(5) An investment product or fund designed to guarantee principal and a rate of return generally consistent with that earned on intermediate investment grade bonds, while providing liquidity for withdrawals by participants and beneficiaries, including transfers to other investment alternatives. Such investment product must meet the following requirements: (A) There are no fees or surrender charges imposed in connection with withdrawals initiated by a participant or beneficiary; and (B) Principal and rates of return are guaranteed by a State or federally regulated financial institution. Such investment product or fund described in this paragraph will constitute a Qualified Default Investment Alternative solely for purposes of assets invested in such product or fund before December 24, 2007.

An investment fund product or model portfolio that meets the requirements of this paragraph (d) may be offered through variable annuity or similar contracts, common or collective trust funds, or pooled investment funds without regard to whether such contracts or funds provide annuity purchase rights, investment guarantees, death benefit guarantees, or other features ancillary to the investment fund product or model portfolio.

10.20 Qualified Percentage. The term "Qualified Percentage" means the uniform percentage of Compensation that an Eligible Participant is treated as having elected to have the Employer make to the Plan as Elective Deferrals under a Qualified Automatic Contribution Arrangement. Under no circumstances can the Qualified Percentage exceed 10%.

10.21 Roth Elective Deferral. The term "Roth Elective Deferral" means a participant's Elective Deferral that is includible in the participant's gross income at the time that the Elective Deferral is deferred.

10.22 Safe Harbor 401(k) and/or 401(m) Plan. The term "Safe Harbor 401(k) and/or 401(m) Plan" means a 401(k) plan which meets all of the requirements of Code §401(k)(12) and/or a 401(m) plan which meets all of the requirements of Code §401(m)(11) for a Plan Year.

10.23 Traditional Automatic Contribution Arrangement. The term "Traditional Automatic Contribution Arrangement" means an Automatic Contribution Arrangement that is neither a Qualified Automatic Contribution Arrangement nor an Eligible Automatic Contribution Arrangement.

10.24 Year of Vesting Service. The term "Year of Vesting

Service" means either (a) if used for vesting purposes, a year of service (as defined in the Plan); (b) if used for vesting purposes, a whole year (or 1-year) period of service (as defined in the Plan); or (c) any other one year period that is used for vesting purposes in the Plan.

Section 11. Signature Provisions

11.1 Signature of the Authorized Representative of the Sponsoring Employer:

By _____ **Date** _____

Print Name _____ **Title** _____

Exhibit 10.78

HERBALIFE LTD.
AMENDED AND RESTATED
INDEPENDENT DIRECTORS DEFERRED COMPENSATION AND STOCK UNIT PLAN

AMENDMENT

Pursuant to Section 9 of the Herbalife Ltd. Amended and Restated Independent Directors Deferred Compensation and Stock Unit Plan (the "Independent Directors Plan"), the Independent Directors Plan is hereby amended as follows, effective as of January 27, 2009:

1. Section 1 of the Independent Directors Plan is hereby amended by deleting the third sentence of the first paragraph thereof in its entirety and replacing it with the following:

"Prior to January 1, 2009, the Independent Directors Plan provided for the award of Stock Units under Section 9 of the Herbalife Ltd. 2005 Stock Incentive Plan (the "Plan"). From and after January 1, 2009, the Independent Directors Plan provides for the award of Stock Appreciation Rights under Section 8 of the Plan."

2. Section 1 of the Independent Directors Plan is hereby amended by deleting the second paragraph thereof in its entirety and replacing it with the following:

"The purpose of the Plan is to facilitate equity ownership in the Company by its Independent Directors through the award of equity-based compensation awards under the Plan. "

3. Section 2(c) of the Independent Directors Plan is hereby deleted in its entirety and replaced with the following:

"(c) 'Grant Date' means a date on which Stock Units or Stock Appreciation Rights are granted pursuant this Independent Directors Plan."

4. Section 4 of the Independent Directors Plan is hereby deleted in its entirety and replaced with the following:

"**4. Eligibility and Participation.**

All Independent Directors shall be eligible to participate in this Independent Directors Plan and receive awards of Stock Units or Stock Appreciation Rights, as applicable, hereunder from time to time."

5. Section 5 of the Independent Directors Plan is hereby amended to add the following new subsection (g) to the end thereof:

"(g) Notwithstanding anything herein to the contrary, no Stock Units shall be awarded under this Independent Directors Plan on or after January 1, 2009."

6. The Independent Directors Plan is hereby amended to add the following new Section 5A immediately following the existing Section 5 thereof:

"**5A. Stock Appreciation Right Awards.**

(a) **2009 Plan Year Grant.** On February 27, 2009, the Committee shall grant to each Independent Director, pursuant to Section 8 of the Plan, a number of Stock Appreciation Rights equal to the quotient of One Hundred Thousand Dollars ($100,000) divided by the "fair value" (as determined by the Company in accordance with Financial Accounting Standards Board's Statement of Financial Accounting Standards No. 123 (revised 2004), Share-Based Payment or such revised standard as then applicable ("FAS 123R")) of one Stock Appreciation Right on such date, rounded to the nearest whole number.

(b) **Grants Upon Initial Election to Board.** Unless otherwise determined by the Committee, with respect to each Independent Director who commences service on the Board after February 27, 2009, upon such Independent Director's commencement of service as a member of the Board the Committee shall grant to such Independent Director, pursuant to Section 8 of the Plan, a number of Stock Appreciation Rights equal to (i) the quotient of One Hundred Thousand Dollars ($100,000) divided by the "fair value" (as determined by the Company in accordance with FAS 123R) of one Stock Appreciation Right on such date, rounded to the nearest whole number, multiplied by (ii) a fraction, the numerator of which equals (A) 365 minus (B) the number of days during the year that have elapsed from February 27 through such date and the denominator of which equals 365.

(c) **Annual Grants.** Unless otherwise determined by the Committee, on February 27 of each twelve month period beginning with and after February 27, 2009 (or the business day, if different, whereupon annual equity awards are made to Company employees), the Committee shall grant, pursuant to Section 8 of the Plan, to each Independent Director who is serving as a member of the Board as of such date, a number of Stock Appreciation Rights equal to the quotient of One Hundred Thousand Dollars ($100,000) divided by the "fair value" (as determined by the Company in accordance with FAS 123R) of one Stock Appreciation Right on such date, rounded to the nearest whole number.

(d) **Base Price.** The Base Price for each award of Stock Appreciation Rights shall be the closing price of the Common Shares on the date of grant.

(e) **Award Agreement.** Each award of Stock Appreciation Rights shall be evidenced by an award agreement entered into between the Company and the applicable Independent Director and shall be subject to all of the terms and conditions set forth herein and in the Plan.

(f) **Terms and Conditions of Stock Appreciation Rights.** Stock Appreciation Right awards made pursuant to this Section 5A shall be subject to the following terms and conditions:

(i) Each Stock Appreciation Right shall represent the right to receive, upon exercise of the Stock Appreciation Right, a payment, paid in Common Shares, equal

to (i) the excess of the Fair Market Value, on the date of exercise, of one Common Share (as adjusted pursuant to Section 12 of the Plan) over the Base Price of the Stock Appreciation Right, divided by (ii) the Fair Market Value, on the date of exercise, of one Common Share.

(iii) Unless determined otherwise by the Committee at the time of grant and set forth in an award agreement, subject to the applicable Independent Director's continuous service as a member of the Board, awards of Stock Appreciation Rights pursuant to Section 5A(a) or Section 5A(c) shall become vested with respect to twenty-five percent (25%) of the number of Stock Appreciation Rights subject to the award on each of May 27, August 27 and November 27 of the calendar year in which the award is granted and February 27 of the calendar year following the year in which the award is granted (each such date is referred to herein as a "Vesting Date"); provided, however, that no Stock Appreciation Right, whether vested or unvested, may be exercised prior to the date specified in Section 5A(g) of this Independent Directors Plan.

(iv) Unless determined otherwise by the Committee at the time of grant and set forth in an award agreement, subject to the applicable Independent Director's continuous service as a member of the Board, awards of Stock Appreciation Rights pursuant to Section 5A(b) shall become vested in equal installments on each of the Vesting Dates that occur after the Grant Date and on or prior to the next following February 27th; provided, however, that no Stock Appreciation Right, whether vested or unvested, may be exercised prior to the date specified in Section 5A(g) of this Independent Directors Plan.

(v) In the event that an Independent Director ceases to serve as a member of the Board for any reason, all Stock Appreciation Rights held by such Independent Director at the time of such cessation that have not yet become vested shall be immediately forfeited; provided, however, that in the event of the Independent Director's disability (as such term if defined in Section 22(e) of the Code) or death, the Committee may, in its sole discretion, accelerate the vesting of any unvested Stock Appreciation Rights then held by such Independent Director.

(vi) Notwithstanding anything herein to the contrary, in the event of a Change of Control all unvested Stock Appreciation Rights shall be deemed fully vested and exercisable immediately prior to the consummation of the Change of Control.

(g) **Exercisability of Stock Appreciation Right Awards.**

(i) Subject to the applicable Independent Director's continuous service as a member of the Board, Stock Appreciation Rights granted under this Section 5A that become vested pursuant to this Section 5A hereof shall be exercisable by the Independent Director on and after the second anniversary of the final Vesting Date of the award pursuant to this Section 5A and shall remain exercisable until the seventh (7th) anniversary of the Grant Date.

(ii) In the event that an Independent Director ceases to serve as a member of the Board for any reason prior to the second anniversary of the final Vesting Date of an award of Stock Appreciation Rights pursuant to this Section 5A, Stock Appreciation Rights previously granted that vested on or prior to such cessation of service shall be exercisable by the Independent Director on and after the date of such cessation of service and shall remain exercisable until the seventh (7th) anniversary of the Grant Date."

7. Section 6(a)(i) of the Independent Directors Plan is hereby amended to add the following sentence to the end thereof:

"Notwithstanding anything herein to the contrary, no deferrals shall be made pursuant to this Independent Directors Plan from and after January 1, 2009."

8. Section 6(b) of the Independent Directors Plan is hereby amended to add the following new subsection (ix) to the end thereof:

"(ix) Section 457A. Notwithstanding anything herein to the contrary, to the extent necessary for this Independent Directors Plan to comply with Section 457A of the Code, all amounts deferred pursuant to this Independent Directors Plan and not distributed in accordance with the terms hereof before December 31, 2017 shall be distributed in lump sum to the applicable Participant on December 31, 2017."

Except as modified by this Amendment, the Independent Directors Plan shall remain unchanged and shall remain in full force and effect.

HERBALIFE LTD.
2005 STOCK INCENTIVE PLAN

INDEPENDENT DIRECTORS STOCK APPRECIATION RIGHT AGREEMENT

This Independent Directors Stock Appreciation Right Agreement (this "Agreement") dated as of February ___, 20___(the "Grant Date") between Herbalife Ltd., an entity organized under the laws of the Cayman Islands (the "Company"), and [DIRECTOR] ("Participant").

WHEREAS, the Company, by action of the Board established the Herbalife Ltd. Amended and Restated Independent Directors Deferred Compensation and Stock Appreciation Right Plan (the "Independent Directors Plan");

WHEREAS, the Board has determined that Participant is an independent director of the Company and the Company desires to encourage Participant to own Common Shares for the purposes stated in Section 1 of the Plan and the Independent Directors Plan;

WHEREAS, Participant and the Company have entered into this Agreement to govern the terms of the Stock Appreciation Right Award (as defined below) granted to Participant by the Company.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements contained herein, the Company and Participant, intending to be legally bound, hereby agree as follows:

1. Grant.

(a) The Company hereby grants to the Participant an Award of_____ Stock Appreciation Rights (the "Award") in accordance with Section 8 of the Plan and subject to the terms and conditions set forth herein and in the Plan (each as amended from time to time). Each Stock Appreciation Right represents the right to receive, upon exercise of the Stock Appreciation Right pursuant to this Agreement, from the Company, a payment, paid in Common Shares, par value $.002 per share, of the Company (the "Common Shares"), equal to (i) the excess of the Fair Market Value, on the date of exercise, of one Common Share (as adjusted from time to time pursuant to Section 12 of the Plan) over the Base Price (as defined below) of the Stock Appreciation Right, divided by (ii) the Fair Market Value, on the date of exercise, of one Common Share, subject to terms and conditions set forth herein, in the Independent Directors Plan and in the Plan (each as amended from time to time).

(b) The "Base Price" for the Stock Appreciation Right shall be $_____ per share (subject to adjustment as set forth in Section 12 of the Plan).

(c) Except as otherwise defined herein, capitalized terms used herein shall have the meanings set forth in the Plan or the Independent Directors Plan, as applicable.

2. Vesting.

(a) Participant's Stock Appreciation Rights shall not be vested as of the Grant Date and shall be forfeitable unless and until otherwise vested pursuant to the terms of this Agreement. Subject to Participant's continued service as a member of the Board, the Award shall become vested with respect to 25% of the Stock Appreciation Rights awarded hereunder on each of May 27, 200___, August 27, 200___, November 27, 200___and February 27, 200___(each such date a "Vesting Date"). Stock Appreciation Rights awarded hereunder that have vested and are no longer subject to forfeiture are referred to herein as "Vested SARs." Stock Appreciation Rights awarded hereunder that are not vested and remain subject to forfeiture are referred to herein as "Unvested SARs."

(b) Notwithstanding anything herein or in the Plan to the contrary, upon the cessation of Participant's service as a member of the Board by reason of Participant's of death or disability (as such term if defined in Section 22(e) of the Code), all Unvested SARs shall vest as of the date of such termination of employment.

(c) Notwithstanding anything herein or in the Plan to the contrary, upon the occurrence of a Change of Control, the Award shall become immediately and fully vested and exercisable as of the date of the Change of Control.

3. Time for Exercise.

(a) Except as set forth in Paragraph 2(c) or Section 13 of the Plan, the Award (including both Vested SARs and Unvested SARs) shall not be exercisable on or before the dates specified in this Paragraph 3.

(b) Subject to Participant's continued service as a member of the Board, all then Vested SARs shall become exercisable on the second anniversary of the final Vesting Date.

(c) Notwithstanding anything herein to the contrary, in the event Participant ceases to be a member of the Board for any reason prior to the date specified in Paragraph 3(b), all then Vested SARs shall become exercisable on the date of such cessation of service.

4. Expiration. The Award shall expire on the seventh (7^{th}) anniversary of the Grant Date; provided, however, that the Award may earlier terminate as provided in Section 13 of the Plan.

5. Method of Exercise. The Award may be exercised by delivery to the Company (attention: Secretary) of a notice of exercise in the form specified by the Company specifying the number of shares with respect to which the Award is being exercised.

6. Fractional Shares. No fractional shares may be purchased upon any exercise.

7. Adjustments of Shares and Awards. Subject to Section 12(a) of the Plan, in the event of any change in the outstanding Shares by reason of an acquisition, spin-off or reclassification, recapitalization or merger, combination or exchange of Common Shares or other corporate exchange, Change of Control or similar event, the Committee shall adjust appropriately the number or kind of shares or securities subject to the Award and Base Prices related thereto and

make such other revisions to the Award as it deems are equitably required. Any adjustments made pursuant to this Paragraph 7 shall be implemented in accordance with Section 409A of the Internal Revenue Code of 1986, as amended.

8. Compliance With Legal Requirements. The Award shall not be exercisable and no Common Shares shall be issued or transferred pursuant to this Agreement or the Plan unless and until all legal requirements applicable to such issuance or transfer have, in the opinion of counsel to the Company, been satisfied. Such legal requirements may include, but are not limited to, (i) registering or qualifying such Common Shares under any state or federal law or under the rules of any stock exchange or trading system, (ii) satisfying any applicable law or rule relating to the transfer of unregistered securities or demonstrating the availability of an exemption from applicable laws, (iii) placing a restricted legend on the Common Shares issued pursuant to the exercise of the Award, or (iv) obtaining the consent or approval of any governmental regulatory body.

9. Shareholder Rights. Participant shall not be deemed a shareholder of the Company with respect to any of the Common Shares subject to the Award, except to the extent that such shares shall have been purchased and transferred to Participant.

10. Taxes. Participant is liable and responsible for all taxes owed in connection with the Award, regardless of any action the Company takes with respect to any tax withholding obligations that arise in connection with the Award. The Company does not make any representation or undertaking regarding the treatment of any tax withholding in connection with the grant, vesting or settlement of the Award or the subsequent sale of Common Shares issuable pursuant to the Award. The Company does not commit and is under no obligation to structure the Award to reduce or eliminate Participant's tax liability.

11. Assignment or Transfer Prohibited. The Award may not be assigned or transferred otherwise than by will or by the laws of descent and distribution, and may be exercised during the life of Participant only by Participant or Participant's guardian or legal representative; provided, however, Participant may assign or transfer the Award to the extent permitted under the Independent Directors Plan, provided that the Award shall be subject to all the terms and condition of the Independent Directors Plan, the Plan, this Agreement and any other terms required by the Committee as a condition to such transfer. Neither the Award nor any right hereunder shall be subject to attachment, execution or other similar process. In the event of any attempt by Participant to alienate, assign, pledge, hypothecate or otherwise dispose of the Award or any right hereunder, except as provided for herein, or in the event of the levy or any attachment, execution or similar process upon the rights or interests hereby conferred, the Company may terminate the Award by notice to Participant, and the Award shall thereupon become null and void.

12. Committee Authority. Any question concerning the interpretation of this Agreement or the Plan, any adjustments required to be made under this Agreement or the Plan, and any controversy that may arise under this Agreement or the Plan shall be determined by the Committee in its sole and absolute discretion. All decisions by the Committee shall be final and binding.

13. Application of the Plan. The terms of this Agreement are governed by the terms of the Independent Directors Plan and the Plan, as both exist on the Grant Date and as amended from time to time. In the event of any conflict between the provisions of this Agreement and the provisions of the Independent Directors Plan and/or the Plan, the terms of the Independent Directors Plan or the Plan (as applicable) shall control, except as expressly stated otherwise in this Agreement. The term "Section" generally refers to provisions within the Independent Directors Plan or the Plan; provided, however, the term "Paragraph" shall refer to a provision of this Agreement.

14. General Provisions.

(a) No Waiver. No waiver of any provision of this Agreement will be valid unless in writing and signed by the person against whom such waiver is sought to be enforced, nor will failure to enforce any right hereunder constitute a continuing waiver of the same or a waiver of any other right hereunder.

(b) Undertaking. Participant hereby agrees to take whatever additional action and execute whatever additional documents the Company may deem necessary or advisable in order to carry out or effect one or more of the obligations or restrictions imposed on either Participant or the Award pursuant to the express provisions of this Agreement.

(c) Entire Contract. This Agreement, the Independent Directors Plan and the Plan constitute the entire contract between the parties hereto with regard to the subject matter hereof. This Agreement is made pursuant to the provisions of the Independent Directors Plan and the Plan and will in all respects be construed in conformity with the express terms and provisions of the Independent Directors Plan and the Plan.

(d) Successors and Assigns. The provisions of this Agreement will inure to the benefit of, and be binding on, the Company and its successors and assigns and Participant and Participant's legal representatives, heirs, legatees, distributees, assigns and transferees by operation of law, whether or not any such person will have become a party to this Agreement and agreed in writing to join herein and be bound by the terms and conditions hereof.

(e) Securities Law Compliance. Participant understands that the Company is under no obligation to register for resale the Common Shares issued upon exercise of the Award. The Company may impose such restrictions, conditions or limitations as it determines appropriate as to the timing and manner of any resales by Participant or other subsequent transfers by Participant of any Common Shares issued as a result of or under this Award, including without limitation (i) restrictions under an insider trading policy, (ii) restrictions that may be necessary in the absence of an effective registration statement under the Securities Act of 1933, as amended, covering the Award and/or the Common Shares underlying the Award and (iii) restrictions as to the use of a specified brokerage firm or other agent for such resales or other transfers. Any sale of the Common Shares must also comply with other applicable laws and regulations governing the sale of such shares.

(f) Electronic Delivery. The Company may, in its sole discretion, decide to deliver any documents related to any awards granted under the Plan by electronic means or to request

Participant's consent to participate in the Independent Directors Plan and the Plan by electronic means. Participant hereby consents to receive such documents by electronic delivery and, if requested, to agree to participate in the Independent Directors Plan and the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company, and such consent shall remain in effect throughout Participant's term of service with the Company and thereafter until withdrawn in writing by Participant.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

HERBALIFE LTD.

By: _____

[DIRECTOR]

Name:
Title:

Exhibit 31.1

Section 302 Certification

I, Michael O. Johnson, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Herbalife Ltd.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a -15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

By: /s/ MICHAEL O. JOHNSON
Michael O. Johnson
Chief Executive Officer

Dated: May 4, 2009

Exhibit 31.2

Section 302 Certification

I, Richard Goudis, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Herbalife Ltd.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a -15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

By: /s/ RICHARD GOUDIS
Richard Goudis
Chief Financial Officer

Dated: May 4, 2009

Exhibit 32.1

CERTIFICATION
Pursuant to 18 U.S.C. Section 1350
Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

In connection with the Quarterly Report of Herbalife Ltd., or Company, on Form 10-Q for the fiscal quarter ended March 31, 2009 as filed with the U.S. Securities and Exchange Commission on the date hereof, or Report, and pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, each of the undersigned officers of the Company certifies that:

- the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ MICHAEL O. JOHNSON
Michael O. Johnson
Chief Executive Officer

Dated: May 4, 2009

By: /s/ RICHARD GOUDIS
Richard Goudis
Chief Financial Officer

Dated: May 4, 2009

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.