

Whitestone REIT  
Form DEFC14A  
March 29, 2018

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

SCHEDULE 14A  
(RULE 14a-101)

PROXY STATEMENT PURSUANT TO SECTION 14(a) OF THE SECURITIES  
EXCHANGE ACT OF 1934

Filed by the Registrant   
Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to Section 240.14a-12

Whitestone REIT  
(Name of Registrant as Specified in Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

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(1) Title of each class of securities to which transaction applies:

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(1) Amount previously paid:

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(2) Form, Schedule or Registration Statement No.:

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(3) Filing Party:

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(4) Date Filed:

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2600 S. GESSNER ROAD, SUITE 500  
HOUSTON, TEXAS 77063

April 2, 2018

Dear Shareholder:

You are cordially invited to attend the 2018 Annual Meeting of Shareholders to be held on May 17, 2018, at 8:00 a.m., Central Daylight Time, at the Houston Marriott Westchase Hotel, located at 2900 Briarpark Drive, Houston, TX, 77042.

The notice of Annual Meeting and proxy statement accompanying this letter provide an outline of the business to be conducted at the meeting. I will also report on our progress during the past year and answer shareholders' questions.

As you may have heard, KBS SOR Properties LLC, a wholly owned subsidiary of KBS Strategic Opportunity REIT, an externally managed, non-traded REIT ("KBS"), had notified Whitestone of its intent to nominate a slate of three nominees, and has proposed for nomination a slate of two nominees in its preliminary proxy statement filed on March 28, 2018, for election to our Board of Trustees at the meeting in opposition to the nominees recommended by our Board of Trustees. You may receive a proxy statement, Blue proxy card and other solicitation materials from KBS. Whitestone is not responsible for the accuracy of any information provided by or relating to KBS or its nominees contained in solicitation materials filed or disseminated by or on behalf of KBS, or any other statements that KBS may make.

The Whitestone Board of Trustees does not endorse any KBS nominee and unanimously recommends that you vote FOR the election of each of the nominees proposed by the Board of Trustees on your WHITE proxy card. The Board of Trustees strongly urges you not to sign or return any Blue proxy card sent to you by KBS. If you have previously submitted a Blue proxy card sent to you by KBS, you can revoke that proxy and vote for our Board of Trustees' nominees and on the other matters to be voted on at the 2018 Annual Meeting by using the enclosed WHITE proxy card.

It is important that your shares be represented at the Annual Meeting. I urge you to authorize a proxy to vote your shares via the Internet, or by calling the toll-free telephone number, or by signing, dating and promptly returning your WHITE proxy card enclosed with the proxy materials. Your vote is important. If you have any question about how to vote your shares, please call the firm assisting us with the solicitation of proxies, Innisfree M&A Incorporated, toll free, at 877-750-0502.

Sincerely yours,  
James C. Mastandrea  
Chairman and Chief Executive Officer

2600 S. GESSNER ROAD, SUITE 500  
HOUSTON, TEXAS 77063

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS

To be Held May 17, 2018

To our Shareholders:

You are invited to attend our 2018 Annual Meeting of Shareholders (the “Annual Meeting”), to be held at the Houston Marriott Westchase Hotel, located at 2900 Briarpark Drive, Houston, TX, 77042 on May 17, 2018 at 8:00 a.m. Central Daylight Time for the following purposes:

1. To elect three trustees to serve until our 2021 annual meeting of shareholders and thereafter until their successors have been duly elected and qualified (Proposal No. 1);
2. To approve, in an advisory (non-binding) vote, the compensation of our named executive officers (Proposal No. 2);
3. To ratify the appointment of Pannell Kerr Forster of Texas, P.C. as our independent registered public accounting firm for the fiscal year ending December 31, 2018 (Proposal No. 3);
4. If properly presented, to vote on a non-binding, advisory shareholder proposal to request the Board of Trustees to take the steps necessary to declassify the Board of Trustees and to require that all trustees stand for election annually and to prohibit the Board of Trustees from taking action to classify the Board of Trustees without shareholder approval (Proposal No. 4); and
5. To transact such other business that may properly come before the meeting or any adjournment or postponement thereof.

All shareholders of record as of the close of business on March 6, 2018 are entitled to notice of and to vote at the Annual Meeting or any adjournment or postponement thereof.

Please note that KBS SOR Properties LLC, a wholly owned subsidiary of KBS Strategic Opportunity REIT, an externally managed, non-traded REIT (“KBS”), had notified Whitestone of (1) its intent to nominate a slate of three nominees, and has proposed for nomination a slate of two nominees in its preliminary proxy statement filed on March 28, 2018, for election to the Board of Trustees at the meeting and (2) its proposal to request the Board of Trustees to take the steps necessary to declassify the Board of Trustees and to require that all trustees stand for election annually and to prohibit the Board of Trustees from taking action to classify the Board of Trustees without shareholder approval. You may receive a proxy statement, Blue proxy card and other solicitation materials from KBS. Whitestone does not endorse any KBS nominees and unanimously recommends that you vote FOR the election of each of the nominees proposed by the Board of Trustees on your WHITE proxy card. The Board of Trustees strongly urges you not to sign or return any Blue proxy card sent to you by KBS.

It is extremely important that your shares be represented and voted at the Annual Meeting in light of the proxy contest being conducted by KBS. Whether or not you plan to attend the Annual Meeting, please vote as soon as possible. You are urged to date, sign and return the WHITE proxy card in the envelope provided to you, or to authorize a proxy to vote your shares using the telephone or Internet method described on your WHITE proxy card, even if you plan to attend the Annual Meeting in person, so that if you are unable to attend the Annual Meeting your shares can be voted. Voting now will not limit your right to change your vote or to attend the Annual Meeting. If you attend the Annual Meeting and decide to vote in person by ballot at the Annual Meeting, your vote will revoke any prior proxy you may

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have submitted. If your shares are held in the name of a bank, broker or other holder of record and you wish to revoke a proxy, you should contact your bank, broker or other holder of record and follow its procedures for changing your voting instructions. If your shares are held in the name of a bank, broker or other holder of record, you may vote in person at the Annual Meeting only if you obtain a legal proxy from such bank, broker or other holder of record.

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REGARDLESS OF WHETHER YOU PLAN TO ATTEND THE ANNUAL MEETING, PLEASE READ THE PROXY STATEMENT AND AUTHORIZE A PROXY TO VOTE YOUR SHARES AS SOON AS POSSIBLE.

By order of the Board of Trustees,

John J. Dee  
Chief Operating Officer and Corporate Secretary  
April 2, 2018

IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS FOR THE ANNUAL MEETING TO BE HELD ON MAY 17, 2018:

This Proxy Statement and Whitestone's Annual Report to Shareholders for the fiscal year ended December 31, 2017 are available for review by shareholders of record at: [www.eproxyaccess.com/wsr2018](http://www.eproxyaccess.com/wsr2018)

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WHITESTONE REIT

2600 South Gessner Road  
Suite 500  
Houston, Texas 77063  
www.whitestonereit.com

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PROXY STATEMENT

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The following information is furnished in connection with the 2018 Annual Meeting of Shareholders (the “Annual Meeting”) of Whitestone REIT (the “Company” or “Whitestone”), to be held on May 17, 2018 at 8:00 a.m., Central Daylight Time, at the Houston Marriott Westchase Hotel, located at 2900 Briarpark Drive, Houston, TX, 77042. This Proxy Statement, our 2017 Annual Report on Form 10-K (“Annual Report”), and Form of WHITE proxy card are first being made available, and a Notice Regarding the Availability of Proxy Materials is first being mailed, to shareholders on or about April 2, 2018.

SOLICITATION AND VOTING

The Board of Trustees of Whitestone (our “Board”) is soliciting proxies to be used at our Annual Meeting to be held on May 17, 2018 at 8:00 a.m., Central Daylight Time, at the Houston Marriott Westchase Hotel, located at 2900 Briarpark Drive, Houston, TX, 77042 or at any postponement or adjournment thereof.

What proposals will be voted upon at the Annual Meeting?

The following proposals are scheduled to be voted upon at the Annual Meeting: (1) the election of three trustees to serve until our 2021 annual meeting of shareholders and thereafter until their successors have been duly elected and qualified; (2) the approval of, in an advisory (non-binding) vote, the compensation of our named executive officers, (3) the ratification of the appointment of Pannell Kerr Forster of Texas, P.C. as our independent registered public accounting firm for the fiscal year ending December 31, 2018 and (4) if properly presented, the approval of a non-binding, advisory shareholder proposal to request the Board to take the steps necessary to declassify the Board and to require that all trustees stand for election annually and to prohibit the Board from taking action to classify the Board without shareholder approval. As of the date of this Proxy Statement, we are not aware of any other matters that will be presented for consideration at the Annual Meeting

Has the Company been notified that a shareholder intends to nominate alternate trustee nominees at the Annual Meeting?

Yes. KBS SOR Properties LLC, a wholly owned subsidiary of KBS Strategic Opportunity REIT, an externally managed, non-traded REIT (“KBS”), had notified the Company of its intention to nominate three trustee nominees, and has proposed for nomination a slate of two trustee nominees in its preliminary proxy statement filed on March 28, 2018, for election at the Annual Meeting in opposition to the trustee nominees recommended by the Board. KBS’s trustee nominees have NOT been endorsed by the Board, and the Board unanimously recommends you submit your voting instructions “FOR” all of the Board’s trustee nominees on the enclosed WHITE proxy card. The Board strongly urges you NOT to sign or return any Blue proxy card sent to you by KBS. If you have previously submitted a Blue

proxy card sent to you by KBS, you can revoke that Blue proxy authorization and submit your voting instructions for the Board's trustee nominees and on the other matters to be voted upon at the Annual Meeting by signing, dating and returning the enclosed WHITE proxy card or by submitting a proxy by telephone or by Internet by following the instructions on the enclosed WHITE proxy card.

Who is entitled to vote at the Annual Meeting?

Only holders of record of our common shares as of the close of business on the record date, March 6, 2018, are entitled to receive notice of and to vote at the Annual Meeting or any postponement or adjournment thereof. As of the close of business on March 6, 2018, we had 39,223,717 common shares outstanding. Common shareholders are entitled to one vote for each common share that they owned on the record date. No dissenters' rights are provided under the Maryland General Corporation Law, our Declaration of Trust or our bylaws with respect to any of the proposals described in this Proxy Statement.

**Shareholder of Record: Shares Registered in Your Name.** If on March 6, 2018, your shares were registered directly in your name with Whitestone's transfer agent, American Stock Transfer & Trust Company, LLC, then you are a shareholder of record. As a shareholder of record, you may vote in person at the Annual Meeting or authorize a proxy to vote your shares as set forth below.

**Beneficial Owner: Shares Registered in the Name of a Broker, Bank or Other Agent.** If on March 6, 2018, your shares were held in an account with a broker, bank or other agent, then you are the beneficial owner of shares held in "street name," and a voting instruction form was forwarded to you by that organization. The organization holding your account is considered to be the shareholder of record for purposes of voting at the Annual Meeting. As a beneficial owner, you have the right to direct your broker, bank or other agent how to vote the shares in your account. You are also invited to attend the Annual Meeting. However, because you are not the shareholder of record, you may not vote your shares in person at the Annual Meeting unless you request and obtain a "legal proxy" from your broker, bank or other agent.

Can I find additional information on the Company website?

Yes. Our website is [www.whitstonereit.com](http://www.whitstonereit.com). Although the information contained on our website is not and should not be considered part of this Proxy Statement, you can view additional information on the website, such as our Code of Business Conduct and Ethics, Corporate Governance Guidelines, charters of Board committees and filings with the Securities and Exchange Commission ("SEC"). A copy of any of these documents may be obtained free of charge by writing to Whitestone REIT, 2600 South Gessner Road, Suite 500, Houston, Texas 77063, Attention: Investor Relations.

How do I vote?

You may either vote for or withhold your vote on the election of the trustee nominees and you may vote for, against, or abstain from voting on the other proposals. The procedures for voting are set forth below.

**Shareholder of Record: Shares Registered in Your Name.** If you are a shareholder of record, you may vote in person at the Annual Meeting or vote by giving your proxy authorization over the Internet or by telephone or mail. Proxies validly delivered by shareholders (by Internet, telephone or mail as described below) and timely received by us will be voted in accordance with the instructions contained therein. Whether or not you plan to attend the Annual Meeting, we encourage you to submit a WHITE proxy card or to give your proxy authorization to ensure that your votes are counted. You may still attend the Annual Meeting and vote in person if you have already voted by submitting a WHITE proxy card or given your proxy authorization. The Board strongly urges you not to sign or return any Blue proxy card sent to you by KBS. If you have previously submitted a Blue proxy card sent to you by KBS, you can revoke that proxy and vote for our Board's nominees and on the other matters to be voted on at the 2018 Annual Meeting by submitting a WHITE proxy card.

If a shareholder signs and returns a WHITE proxy card but gives no instructions, the shareholder's shares will be voted in accordance with the recommendations of our Board with respect to Proposal Nos. 1, 2 and 3. With respect to Proposal No. 4, if a shareholder does not specify the manner it wishes to vote or otherwise gives no instructions with respect to Proposal No. 4, such shares will be counted as abstentions. The individuals named as proxies on the WHITE proxy card to vote your shares also have the discretionary authority to vote your shares, to the extent permitted by Rule 14a-4(c) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), on any matter that is properly brought before the Annual Meeting. The following proposals are scheduled to be voted upon at the Annual Meeting: (1) the election of three trustees to serve until our 2021 annual meeting of shareholders and thereafter until their successors have been duly elected and qualified; (2) the approval, in an advisory (non-binding)

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vote, of the compensation of our named executive officers, (3) the ratification of the appointment of Pannell Kerr Forster of Texas, P.C. as our independent registered public accounting firm for the fiscal year ending December 31, 2018 and (4) if properly presented, the approval of a non-binding, advisory shareholder proposal to request the Board to take the steps necessary to declassify the Board and to require that all trustees stand for election annually and to prohibit the Board from taking action to classify the Board without shareholder approval. As of the date of the Notice of Annual Meeting of Shareholders, we knew of no other matters to be presented at the Annual Meeting.

You may authorize a proxy in three ways:

- Vote online. You can authorize a proxy to vote your shares online by following the instructions on the WHITE proxy card.

- Vote by telephone. Besides authorizing a proxy to vote your shares online, you also have the option to authorize a proxy to vote your shares by telephone by following the instructions provided on the WHITE proxy card.

- Vote by regular mail. If you would like to authorize a proxy to vote your shares by mail, then please mark, sign and date the WHITE proxy card and return it promptly in the postage-paid envelope provided.

Beneficial Owner: Shares Registered in the Name of a Broker, Bank or Other Agent. If you are a beneficial owner of shares registered in the name of your broker, bank or other agent, you should have received the WHITE voting instruction form from that organization rather than from Whitestone. You should follow the instructions provided by your broker, bank or other agent regarding how to vote your shares. As the holder of record, only your bank, broker, other institution or nominee is authorized to vote or grant a proxy for your shares. Accordingly, if you wish to vote your shares in person, you must contact your bank, broker or other holder of record to obtain a "legal proxy" granting you the authority to do so. When you properly vote in accordance with the instructions provided in the WHITE voting instruction form, you are giving your bank, broker or other holder of record instructions on how to vote the shares they hold for you.

The only way to vote for the Board's nominees and in accordance with the Board's recommendations is to sign, date and mail the enclosed WHITE proxy card to vote FOR each of the Board's nominees set forth in Proposal No. 1 and FOR each of Proposal Nos. 2 and 3. The Board of Trustees does not recommend either "FOR" or "AGAINST" Proposal No. 4. You may also authorize a proxy to vote your shares over the Internet by accessing the Internet address on the WHITE proxy card or by telephone using the toll-free number on the WHITE proxy card. If your shares are held in street name, you should follow the instructions on your WHITE voting instruction form and provide specific instructions to your bank, broker or other holder of record to vote as described above.

Can I change or revoke my vote after I return my proxy card?

Yes. If you are the shareholder of record of your shares, you may change or revoke your proxy at any time before it is exercised in one of three ways:

- You may send another properly completed proxy card bearing a later date, or submit a later-dated proxy by telephone or via the internet, in a timely manner;

You may deliver a written notice of revocation, which must be received prior to or at the Annual Meeting, to our Chief Operating Officer and Corporate Secretary, John J. Dee, at Whitestone REIT, 2600 South Gessner Road, Suite 500, Houston, Texas 77063; or

- You may attend the Annual Meeting and notify the inspector of election that you wish to revoke your proxy and vote in person. However, your attendance at the Annual Meeting will not, by itself, revoke your proxy.

If your shares are held by your broker, bank or other agent as your nominee, you should follow the instructions provided by your broker, bank or other agent.

If you have previously signed a Blue proxy card sent to you by KBS or otherwise voted according to instructions provided by KBS, you may change your vote by signing, dating and returning the enclosed WHITE proxy card in the accompanying post-prepaid envelope or by voting by telephone or via the Internet by following the instructions on the WHITE proxy card. Submitting a Blue proxy card sent to you by KBS will revoke votes you have previously made by the Company's WHITE proxy card.

Only the latest validly executed proxy that you submit will count.

How many shares must be present to constitute a quorum for the Annual Meeting?

A quorum of shareholders is necessary to hold a valid meeting. A quorum will be present if the holders of at least a majority of the outstanding shares entitled to vote are represented in person or by proxy at the Annual Meeting. As of the close of business on March 6, 2018, the record date, there were 39,223,717 common shares outstanding and entitled to vote. Thus, 19,611,859 common shares must be represented in person or by proxy at the Annual Meeting to constitute a quorum.

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Your shares will be counted towards the quorum if you vote in person at the Annual Meeting or if you submit a valid proxy by mail, Internet or telephone (or one is submitted on your behalf by your broker, bank or other agent). Additionally, "WITHHOLD" votes, abstentions and broker non-votes, as described below, will also be counted towards the quorum requirement. If there is no quorum, the chairman of the Annual Meeting may adjourn the meeting until a later date.

What should I do if I receive a Blue proxy card from KBS?

KBS had notified the Company that it intended (i) to propose three trustee nominees, and has proposed for nomination two trustee nominees in its preliminary proxy statement filed on March 28, 2018, for election at the Annual Meeting in opposition to the trustee nominees recommended by the Board and (ii) to request the Board to take the steps necessary to declassify the Board and to require that all trustees stand for election annually and to prohibit the Board from taking action to classify the Board without shareholder approval. If KBS proceeds with its proposal, you may receive proxy solicitation materials from KBS, including an opposition proxy statement and Blue proxy card. The Company is not responsible for the accuracy of any information contained in any proxy materials used by KBS or any other statements that KBS may otherwise make. The Board has not endorsed any of KBS's trustee nominees and unanimously recommends that you disregard Blue any proxy card or solicitation materials that may be sent to you by KBS.

Instructing to "WITHHOLD" with respect to any of KBS's trustee nominees on a Blue proxy card sent to you by KBS is not the same as voting for the Board's trustee nominees.

Diluted earnings per share  
\$ .75 \$ .69 \$ 2.15 \$ 2.00

(7)

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|                    |         |         |          |          |
|--------------------|---------|---------|----------|----------|
| Operating profit   | 212,901 | 194,475 | 611,292  | 570,699  |
| Corporate expenses | (3,074) | (3,389) | (10,443) | (14,052) |
| Interest, net      | (7,820) | (8,186) | (25,334) | (25,427) |

|                              |           |           |           |           |
|------------------------------|-----------|-----------|-----------|-----------|
| Earnings before income taxes | \$202,007 | \$182,900 | \$575,515 | \$531,220 |
|------------------------------|-----------|-----------|-----------|-----------|

Registrant's identifiable assets did not change significantly from amounts appearing in the December 31, 2000 Consolidated Segment Information (See Form 10-K for the year then ended), with the exception of Corporate assets which reflects an increase in cash and cash equivalents.

CONTINGENCIES

Registrant has been named in certain health care cost reimbursement/third party recoupment/class action litigation against the major domestic cigarette companies and others seeking damages and other relief. The complaints in these cases on their face predominantly relate to the usage of cigarettes; within that context, certain complaints contain a few allegations relating specifically to smokeless tobacco products. These actions are in varying stages of pretrial activities.

Registrant believes these pending litigation matters will not result in any material liability for a number of reasons, including the fact that Registrant has had only limited involvement with cigarettes and Registrant's current percentage of total tobacco industry sales is relatively small. Prior to 1986, Registrant manufactured some cigarette products which had a *de minimis* market share. From May 1, 1982 to August 1, 1994, Registrant distributed a small volume of imported cigarettes and is indemnified against claims relating to those products.

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UST Inc.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

CONTINGENCIES (Continued)

Registrant is also named in an action in Illinois brought by an individual plaintiff and purporting to state a class action on behalf of himself and all other persons similarly situated alleging that Registrant manipulates the nicotine levels and absorption rates in its smokeless tobacco products and seeking to recover monetary damages in an amount not less than the purchase price of Registrant's smokeless tobacco products and certain other relief. The purported class excludes all persons who claim any personal injury as a result of using Registrant's smokeless tobacco products.

Registrant is also named in certain actions in West Virginia brought on behalf of individual plaintiffs against cigarette manufacturers, smokeless tobacco manufacturers, and other organizations seeking damages and other relief in connection with injuries allegedly sustained as a result of tobacco usage, including smokeless tobacco products. Included among the plaintiffs are six individuals alleging use of Registrant's smokeless tobacco products and alleging the types of injuries claimed to be associated with the use of smokeless tobacco products; five of the six individuals also allege the use of other tobacco products.

Registrant has been named in an action in Florida by an individual plaintiff and his spouse seeking damages and other relief for personal injuries, including cancer of the tongue, allegedly sustained by plaintiff as a result of his use of Registrant's smokeless tobacco products.

Registrant is named in an action in San Francisco, California along with five other smokeless tobacco manufacturers seeking unspecified damages and other relief brought by the City and County of San Francisco and the Environmental Law Foundation purportedly on behalf of the residents of San Francisco County and the general public alleging violation of The Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code §§25249.6, *et seq.* ( Proposition 65 ) and the California Unfair Competition Act, Business and Professions Code §§17200, *et seq.* The action alleges, among other things, that the defendants sold smokeless tobacco products in California without providing a . . . clear and reasonable warning that their use results in multiple exposures to substances known to the State of California to cause cancer, birth defects and reproductive harm.

Registrant believes, and has been so advised by counsel handling these cases, that it has a number of meritorious defenses to all such pending litigation. Except as to Registrant's willingness to consider alternative solutions for resolving certain regulatory and litigation issues, all such cases are, and will continue to be, vigorously defended. Registrant believes that the ultimate outcome of all such pending litigation will not have a material adverse effect on the consolidated financial position of Registrant, but may have a material impact on Registrant's consolidated financial results for a particular reporting period in which resolved.

On September 11, 2000, Registrant filed its notice of appeal to the United States Court of Appeals for the Sixth Circuit from the final and interlocutory orders entered by the District Court in connection with the Conwood litigation. The appeal will be heard by the United States Court of Appeals for the Sixth Circuit on November 27, 2001. On October 10, 2000, Registrant satisfied the \$500 million bonding requirement imposed by the District Court. Registrant believes that the evidence presented at trial was insufficient to support the jury verdict and, as a result, believes that, while there can be no assurances, the judgment should ultimately be reversed on appeal. Registrant

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UST Inc.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

CONTINGENCIES (Continued)

is not presently able to reasonably estimate the amount of damages, if any, which may be ultimately imposed and, accordingly, no charge relating to the judgment is reflected in Registrant's financial statements. While Registrant believes that the judgment should ultimately be reversed, if the adverse judgment is sustained after all appeals, satisfaction of the judgment is likely to have a material adverse effect on Registrant's consolidated financial results for a particular year, but is not expected to have a material adverse effect on Registrant's consolidated financial position.

Registrant has been named in three purported class actions filed in state court in Tennessee, New Mexico and West Virginia on behalf of putative class members who were indirect purchasers of Registrant's smokeless tobacco products in those states during the period April 1996 through March 28, 2000 (Tennessee and New Mexico) and through December 31, 2000 (West Virginia), alleging that Registrant has violated the antitrust laws, unfair or deceptive trade practices statutes and the common law of those states. The plaintiffs seek to recover compensatory and statutory damages in an amount not to exceed \$74,000 after trebling per putative class member, and certain other relief.

Registrant has also been named in a purported class action (reported previously as an individual action and a purported class action and then consolidated on January 8, 2001), filed in federal court in Washington D.C. by wholesalers/distributors of Registrant's smokeless tobacco products. Plaintiffs allege that Registrant engaged in conduct that violates the federal antitrust laws, including Sections 1 and 2 of the Sherman Act and Section 3 of the Clayton Act, and that Registrant engaged in this conduct unilaterally and in concert with its co-conspirators. Plaintiffs seek to recover unspecified statutory damages, before trebling, and certain equitable and other relief.

Each of the foregoing actions is derived directly from the Conwood litigation and therefore will need to overcome the same issues raised by Registrant in its post-trial motions and on appeal. Even if Conwood were ultimately to prevail on issues, which Registrant will challenge on appeal, the plaintiffs in each of these actions will still need to establish additional elements before liability can be imposed upon Registrant. Registrant believes that it has meritorious defenses in this regard, and that the ultimate outcome of these purported class actions will not have a material adverse effect on its consolidated financial position, although if plaintiffs were to prevail, these actions could have a material impact on its consolidated financial results for a particular reporting period in which resolved.

OTHER MATTERS

In October 2001, Registrant renewed its \$300 million 364-day revolving credit facility entered into with various financial institutions. This revolving credit facility is a component of Registrant's existing \$1 billion financing agreement and will expire on October 8, 2002.

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UST Inc.  
MANAGEMENT'S DISCUSSION AND ANALYSIS  
OF OPERATIONS AND FINANCIAL CONDITION  
(Unaudited)

Results of Operations

Third quarter and nine months of 2001 compared  
with the corresponding periods of 2000

CONSOLIDATED RESULTS

Consolidated net sales increased 7.2 percent to \$417.8 million and 6.3 percent to \$1.223 billion for the third quarter and first nine months of 2001, respectively. Operating income increased 9.8 percent to \$209.8 million for the third quarter and 7.9 percent to \$600.8 million for the first nine months compared to the corresponding 2000 periods. For the third quarter of 2001, net earnings increased 10.4 percent to \$124.2 million, while basic and diluted earnings per share increased 10.1 percent to \$.76 per share and 8.7 percent to \$.75 per share, respectively. Net earnings for the first nine months of 2001 increased by 8.3 percent to \$353.9 million versus \$326.7 million during the same period in 2000. Year-to-date basic and diluted earnings per share for 2001 increased 8 percent to \$2.16 per share and 7.5 percent to \$2.15 per share, respectively. The consolidated gross profit percentage decreased slightly for both 2001 periods as increased sales of wine products, which sell at lower margins, were partially offset by higher margins achieved by the Smokeless Tobacco segment. Corporate expenses for the third quarter of 2001 decreased slightly from the corresponding 2000 period, and decreased more significantly for the nine-month period primarily as a result of prior year hedging losses related to the issuance of debt. Net interest expense for the third quarter of 2001 decreased slightly to \$7.8 million, primarily as a result of higher interest income on accumulated cash and a lower average interest rate on borrowings, partially offset by higher average debt outstanding. For the first nine months of 2001, net interest expense approximated the corresponding 2000 period. Income taxes increased in both 2001 periods as a result of higher earnings before taxes compared to 2000. The effective tax rates for both 2001 periods remained level with the corresponding 2000 periods at 38.5 percent.

SMOKELESS TOBACCO SEGMENT

Smokeless Tobacco segment net sales increased 7.3 percent to \$359.6 million for the third quarter of 2001, and increased 5.9 percent to \$1.067 billion for the nine-month period, accounting for 87.2 percent of year-to-date consolidated net sales. The increase for both periods was primarily attributable to higher selling prices for moist smokeless tobacco products as compared to the corresponding 2000 periods, as well as higher unit volume for full-priced premium and non-premium products, partially offset by lower promotional unit volume. Net unit volume for moist smokeless tobacco products increased 0.7 percent to 158.2 million cans and 0.6 percent to 480.1 million cans for the third quarter and nine-month period, respectively. Premium products net unit volume decreased 0.5 percent and 1.0 percent for the third quarter and nine-month period, respectively. However, net unit volume for full-priced premium products showed an increase of 3.9 percent for the third quarter, primarily due to Skoal Long Cut, which posted a 7.4 percent increase over the corresponding 2000 period. Premium promotional can sales in the third quarter were reduced by 6.2 million cans compared to the corresponding 2000 period, accounting for the difference between full-priced premium and total premium can sales. Unit volume results reflect non-premium products

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UST Inc.  
MANAGEMENT'S DISCUSSION AND ANALYSIS OF  
OPERATIONS AND FINANCIAL CONDITION (Continued)

contribution of an additional 1.9 million cans and 7.5 million cans to the third quarter and first nine months of 2001, respectively. Registrant introduced three products within the past year, Copenhagen Black, Rooster Wild Berry and Red Seal Long Cut Straight, which contributed approximately 7.9 million cans to net unit volume in the nine-month period. Share data based on Registrant's Retail Activity Data Share & Volume Tracking System (measuring shipments to retail) for the quarter-to-date period ended September 8, 2001, indicates that on a can volume basis, total category retail shipments increased approximately 2.5 percent, while Registrant's retail shipments increased 2.7 percent and its share increased slightly to 77.5 percent, versus the corresponding 2000 period. Registrant's premium retail shipments and non-premium retail shipments increased 1.3 percent and 23.7 percent, respectively, during that period. Although the premium segment declined as a percentage of the total category, Registrant's share of that segment increased 1 share point. Non-premium retail shipments increased 14.3 percent, resulting in an 18.3 percent share of the total category, while Registrant's share of that segment increased 2.3 share points versus the similar 2000 period.

Cost of products sold increased 4.5 percent and 4.1 percent in the third quarter and first nine months of 2001, respectively, primarily as a result of higher unit cost incurred in production of Registrant's moist smokeless tobacco products, along with increased unit volume. Gross profit for the segment increased 7.8 percent for the third quarter and 6.2 percent for the nine-month period, compared to the corresponding 2000 periods. The gross profit percentage for both 2001 periods increased slightly versus the equivalent 2000 periods primarily as higher selling prices for moist smokeless tobacco products, which included a shift in the mix from promotional to full-priced premium can sales, more than offset the increase in cost of products sold.

Selling and advertising expenses increased in both 2001 periods, primarily due to greater spending on print media and higher planned spending on promotional activities at retail, partially offset by lower spending on trade promotions and direct marketing initiatives. Indirect selling expenses also rose in both periods, primarily as a result of increased salaries and related costs as well as higher spending on market research. The nine-month period also included greater spending on training for the salesforce. Administrative expenses increased in the third quarter and first nine months of 2001, primarily due to higher ongoing bonding costs associated with Registrant's antitrust litigation and administrative spending in other areas, partially offset by lower legal costs. The increased administrative expenses for the nine-month period also included higher ongoing tobacco settlement-related charges as compared to the corresponding 2000 period.

Operating profit for the Smokeless Tobacco segment increased 8.8 percent to \$207.3 million and 5.8 percent to \$600 million for the third quarter and first nine months of 2001, respectively.

**WINE SEGMENT**

Wine segment net sales increased 6.4 percent to \$49.9 million and 10.6 percent to \$133.7 million for the quarter and nine months ended September 30, 2001, respectively, accounting for 10.9 percent of year-to-date consolidated net sales. The increased net sales were primarily a result of premium wine case volume increases of 8.3 percent and 12.6 percent for the third quarter and first nine months of 2001, respectively. The premium case volume growth for both periods was primarily attributable to volume increases of 12.9 percent in the third quarter and 17.1 percent in the nine-month period for the Columbia Crest and Chateau Ste. Michelle brands. Registrant's two leading brands of premium wine, Chateau Ste. Michelle and Columbia Crest accounted for 83.2 percent of Registrant's total year-to-date premium wine sales dollars in 2001.

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UST Inc.  
MANAGEMENT'S DISCUSSION AND ANALYSIS OF  
OPERATIONS AND FINANCIAL CONDITION (Continued)

Cost of products sold increased significantly for both 2001 periods, primarily as a result of higher premium case volume and higher average unit cost. Gross profit for the Wine segment decreased 2.1 percent to \$17.6 million for the third quarter, as higher average unit cost more than offset increased premium case volume. For the nine-month period, gross profit increased 3.0 percent to \$49 million. The Wine segment gross profit percentage decreased for both 2001 periods compared to the similar 2000 periods primarily as a result of higher average unit cost.

Selling and advertising expenses were lower for both 2001 periods primarily as a result of lower spending for point of sale advertising. Indirect selling, administrative and other expenses for the third quarter of 2001 approximated the corresponding 2000 period. These expenses decreased for the nine-month period, primarily due to a \$0.8 million charge in 2000 related to a cancelled acquisition and lower spending in other areas.

For the third quarter and first nine months of 2001, operating profit for the Wine segment increased 6.4 percent to \$6.5 million and 44.5 percent to \$14.1 million, respectively, as compared to \$6.1 million and \$9.8 million in the corresponding 2000 periods.

**ALL OTHER OPERATIONS**

Net sales for all other operations increased 5.8 percent to \$8.3 million and 2.1 percent to \$22.7 million for the third quarter and first nine months of 2001. Overall, all other operations recorded operating losses of \$0.9 million and \$2.8 million for the third quarter and nine-month period, respectively, compared to operating losses of \$2.2 million and \$6.0 million for the comparable 2000 periods.

**LIQUIDITY AND CAPITAL RESOURCES  
CHANGES IN FINANCIAL CONDITION SINCE DECEMBER 31, 2000**

Net cash provided by operating activities increased to \$493.6 million from \$375.4 in the corresponding 2000 period, primarily as a result of higher net earnings, increased income taxes payable and lower accounts receivable. The primary sources of cash from operations were net earnings generated by the Smokeless Tobacco segment and increased income taxes payable, while the main use of cash in operations was for the reduction of accounts payable and accrued expenses and for purchases of leaf tobacco for use in moist smokeless tobacco products. Registrant estimates that 2001 raw material inventory purchases and other related costs, for leaf tobacco and grapes, will approximate amounts expended in 2000.

Net cash used in investing activities was \$21.4 million in 2001 compared to \$28.8 million in 2000. Expenditures in both years include purchases of property, plant and equipment, while 2000 also includes the disposition of an office building. Registrant anticipates that spending associated with the 2001 capital program will approximate \$44 million.

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UST Inc.  
MANAGEMENT'S DISCUSSION AND ANALYSIS OF  
OPERATIONS AND FINANCIAL CONDITION (Continued)

Net cash used in financing activities increased to \$297.6 million from \$243.5 million in 2000. This increase was primarily due to additional cash deposits required under the \$1 billion credit facility as well as lower net proceeds from borrowings, partially offset by the absence of share repurchases along with higher proceeds from the issuance of stock in 2001. Registrant's stock repurchase program has been suspended since the end of the first quarter of 2000 as a result of its antitrust litigation.

Registrant's cash requirements for the remainder of 2001 will primarily be for payment of income taxes and dividends, additional cash deposits under the credit facility and capital spending. These requirements are expected to be met by internally generated funds supported by borrowings under existing credit facilities, if necessary.

**QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

There have been no material changes in market risk since June 30, 2001.

**FORWARD-LOOKING AND CAUTIONARY STATEMENTS**

Reference is made to the section captioned "Cautionary Statement Regarding Forward-Looking Information" which was filed as part of Item 7 Management's Discussion and Analysis of Financial Condition and Results of Operations of Registrant's 2000 Form 10-K, regarding important factors that could cause actual results to differ materially from those contained in any forward-looking statement made by Registrant, including forward-looking statements contained in this report.



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UST Inc.  
PART II OTHER INFORMATION

Item 6. Exhibits and Reports on Form 8-K

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SIGNATURES

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

UST Inc.

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(Registrant)

(16)