

FIRST AMERICAN CORP  
Form PRE 14A  
October 15, 2009

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, DC 20549**

**SCHEDULE 14A**

**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 under § 240.14a-12

**THE FIRST AMERICAN CORPORATION**

(Name of Registrant as Specified In Its Charter)

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

Payment of filing fee (Check the appropriate box):

No fee required

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

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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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October [ ], 2009

Dear Fellow Shareholder:

You are cordially invited to attend our annual meeting of shareholders at 2:00 p.m., Pacific time, on Tuesday, December 8, 2009, at the executive offices of The First American Corporation, located at 1 First American Way, Santa Ana, California 92707.

With this letter, we are including the notice for the annual meeting, the proxy statement and the proxy card. Unless you have received our 2008 annual report earlier in the year, we are also including that report. A map and directions to our executive offices can be found on the inside back cover of the proxy statement.

We have made arrangements for you to vote your proxy over the Internet or by telephone, as well as by mail with the traditional proxy card. The proxy card contains instructions on these methods of voting.

Your vote is important. Whether or not you plan on attending the annual meeting on December 8, 2009, we hope you will vote as soon as possible.

Thank you for your ongoing support of and continued interest in The First American Corporation.

Parker S. Kennedy

Chairman of the Board and

Chief Executive Officer

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**NOTICE OF ANNUAL MEETING OF SHAREHOLDERS**

**To be Held on December 8, 2009**

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The annual meeting of shareholders of The First American Corporation, a California corporation (our Company), will be held at 2:00 p.m., Pacific time, on Tuesday, December 8, 2009, at the executive offices of the Company, located at 1 First American Way, Santa Ana, California 92707, for the following purposes:

1. To elect 18 persons to serve on our board of directors until the next annual meeting or as soon as their successors are duly elected and qualified.
2. To approve the reincorporation of the Company under the laws of Delaware.
3. To ratify the selection of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2009.
4. To transact such other business as may properly come before the meeting or any adjournments thereof.

Only shareholders of record at the close of business on October 12, 2009, are entitled to notice of the meeting and an opportunity to vote.

**The First American Corporation's Notice of Annual Meeting and Proxy Statement, Annual Report and other proxy materials are available at [www.firstam.com/proxymaterials](http://www.firstam.com/proxymaterials).**

It is hoped that you will be present at the meeting to vote in person. However, if you are unable to attend the meeting and vote in person, please submit a proxy as soon as possible, so that your shares can be voted at the meeting in accordance with your instructions. You may submit your proxy (1) over the Internet, (2) by telephone, or (3) by mail. For specific instructions, please refer to the questions and answers commencing on page 2 of the proxy statement and the instructions on the proxy card.

Kenneth D. DeGiorgio

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Senior Vice President, General Counsel

and Secretary

Santa Ana, California

October [ ], 2009

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**PROXY STATEMENT**

**Solicitation of Proxies by the Board of Directors**

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**The First American Corporation's Notice of Annual Meeting and Proxy Statement,**

**Annual Report and other proxy materials are available at**

*[www.firstam.com/proxymaterials](http://www.firstam.com/proxymaterials)*

Our board of directors (our Board) is soliciting proxies from holders of our common shares for use at the annual meeting of our shareholders to be held on December 8, 2009, at 2:00 p.m., Pacific time. The meeting will be held at the executive offices of The First American Corporation, a California corporation (our Company or First American), located at 1 First American Way, Santa Ana, California 92707. We have included a map and directions to our executive offices on the inside back cover of the proxy statement for your convenience.

The approximate date on which this proxy statement and the enclosed proxy card, notice of annual meeting, chairman's letter and, unless previously received, 2008 annual report, will be first mailed to our shareholders is October [ ], 2009.

The remainder of this proxy statement has been divided into three sections. You should read all three sections.

- I. Questions and answers: This section provides answers to a number of frequently asked questions.
- II. Proposals to be voted on: This section provides information relating to the proposals to be voted on at the shareholders' meeting.
- III. Required information: This section contains information that is required by law to be included in this proxy statement and which has not been included in Sections I or II.

**I. QUESTIONS AND ANSWERS**

**Why have I been sent these proxy materials?**

Our Board has sent you this proxy statement and the accompanying proxy card to ask for your vote, as a shareholder of our Company, on certain matters that will be voted on at the annual meeting.

**What matters will be voted on at the meeting?**

- the election of 18 persons to serve on the Board until the next annual meeting or as soon as their successors are duly elected and qualified;
- the reincorporation of the Company under the laws of Delaware;
- the ratification of the Company's selection of PricewaterhouseCoopers LLP ( PwC ) as its independent registered public accounting firm for the 2009 fiscal year; and
- any other business properly raised at the meeting.

At the time this proxy statement was mailed, our Board was not aware of any other matters to be voted on at the annual meeting.

**Who may attend the annual meeting?**

All shareholders of First American.

**Who is entitled to vote?**

Shareholders of record as of the close of business on October 12, 2009, the record date, or those with a valid proxy from a bank, brokerage firm or similar organization that held our shares on the record date are entitled to vote on the matters to be considered at the annual meeting.

**Who is a shareholder of record?**



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A shareholder of record is a person or entity whose name appears as an owner of one or more shares of our common stock on the records of our transfer agent as of its close of business on the record date.

### **How many shares are entitled to vote at the meeting?**

As of the record date, 93,579,532 of our common shares, par value \$1.00 per share, were issued, outstanding and entitled to vote at the meeting.

### **How many votes do I have?**

Each common share is entitled to one vote on each proposal. However, if cumulative voting applies for the election of directors, you will be entitled to cast more than one vote for each nominee. See [What does it mean to cumulate a vote?](#) below on this page.

### **How many votes are needed to elect each director?**

Those candidates receiving the highest number of affirmative votes, up to the number of directors to be elected, will be elected directors.

**What does it mean to cumulate a vote?**

In elections for directors, California law provides that a shareholder, or his or her proxy, may cumulate votes. That is, each shareholder has a number of votes equal to the number of shares owned, multiplied by the number of directors to be elected, and the shareholder may cumulate such votes for a single candidate, or distribute such votes among as many candidates as he or she deems appropriate. However, a shareholder may cumulate votes only for a candidate or candidates whose names have been properly placed in nomination prior to the voting, and only if the shareholder has given notice at the meeting, prior to the voting, of his or her intention to cumulate votes for the candidates in nomination. If one shareholder provides such notice, all shareholders may then vote cumulatively. Unless you give different instructions, your proxy gives discretionary authority to the appointees to vote your shares cumulatively. Cumulative voting does not apply to any proposal other than the election of directors.

**Who are the director nominees?**

The 18 nominees are:

Hon. George L. Argyros  
Bruce S. Bennett  
Matthew B. Botein  
J. David Chatham  
Glenn C. Christenson

Hon. William G. Davis  
James L. Doti  
Lewis W. Douglas, Jr.  
Christopher V. Greetham  
Parker S. Kennedy

Thomas C. O'Brien  
Frank E. O'Brien  
Roslyn B. Payne  
John W. Peace  
D. Van Skilling

Herbert B. Tasker  
Virginia M. Ueberroth  
Mary Lee Widener

See pages 8 through 10 for biographical information regarding the nominees.

**Why does the Board believe the Company should reincorporate in Delaware?**

Our Board believes that it is in the best interests of the Company and its shareholders to change the Company's state of incorporation from California to Delaware. Our Board believes Delaware's corporate laws will better meet the business needs of the Company. Because of Delaware's prominence as the state of incorporation for many major corporations, both the legislature and courts in Delaware have demonstrated an ability and a willingness to act quickly and effectively to meet changing business needs. The Delaware courts have developed considerable expertise in dealing with corporate issues, and a substantial body of case law has developed construing Delaware law and establishing public policies relating to corporate legal matters. Thus, our Board believes that the Company would benefit from greater predictability and certainty in its legal affairs as a result of the proposed reincorporation.

**How many votes are needed to approve the reincorporation?**

The affirmative vote of a majority of the outstanding common shares of the Company is required to approve the reincorporation.

**What will happen if the reincorporation is not approved?**

If the shareholders do not approve the reincorporation, our Company will remain a California corporation; however, our Board may further consider the possibility of our Company reincorporating in Delaware and may advance a similar proposal in the future.

**How many votes are needed to ratify PwC as the Company's independent registered public accounting firm?**

A majority of the shares present and voting at the annual meeting are needed to ratify PwC as the Company's independent registered public accounting firm.

**What happens if the Company's choice of PwC as its independent registered public accounting firm is not ratified by the shareholders?**

If the shareholders do not ratify PwC as the Company's independent registered public accounting firm for the 2009 fiscal year, the audit committee of the Board (the Audit Committee) will reconsider its choice of PwC as the Company's independent registered public accounting firm and may retain a different independent registered public accounting firm; however, the Audit Committee may nonetheless determine that it is in the Company's, and its shareholders', best interests to retain PwC as the Company's independent registered public accounting firm. Additionally, even if shareholders ratify the Audit Committee's selection of PwC as the Company's independent registered public accounting firm, the Audit Committee may at any time determine that it is in the Company's, and its shareholders', best interests to retain a different firm.

**How do I vote?**

You can vote on matters that properly come before the meeting in one of four ways:

*You may vote by mail.*

You do this by signing and dating the proxy card and mailing it in the enclosed, prepaid and addressed envelope within the required time. If you mark your voting instructions on the proxy card, your shares will be voted as you instruct.

*You may vote by telephone.*

You do this by following the instructions accompanying the proxy card. If you vote your proxy by telephone, you do not have to mail in your proxy card. Some shareholders may not be able to vote their proxy by telephone.

*You may vote on the Internet.*

You do this by following the instructions accompanying the proxy card. If you vote your proxy on the Internet, you do not have to mail in your proxy card. Some shareholders may not be able to vote their proxy on the Internet.

*You may vote in person at the meeting.*

You can vote in person at the meeting. However, if you hold your shares in street name (in the name of a bank, broker or some other nominee), you must request and receive a legal proxy from the record owner prior to the meeting in order to vote at the meeting.

**What happens if I sign and return my proxy card, but don't mark my votes?**

Parker S. Kennedy or Kenneth D. DeGiorgio, chairman of the board of directors and general counsel, respectively, will vote your shares in their discretion as proxies.

**Can I revoke my proxy?**

You have the power to revoke your proxy at any time before the polls close at the meeting. You may do this by:

- signing and returning another proxy with a later date;
- submitting written notice of your revocation to our general counsel at our mailing address on the cover page of this proxy statement;

- voting your proxy by telephone or on the Internet (only your latest proxy is counted); or
- voting in person at the meeting.

**What happens if my shares are held under the name of a brokerage firm?**

If your shares are held in street name, your brokerage firm, under certain circumstances, may vote your shares. Brokerage firms have authority under New York Stock Exchange rules to vote customers' unvoted shares on certain routine matters, including the election of directors. If you do not vote your proxy, your brokerage firm may either:

- vote your shares on routine matters; or
- leave your shares unvoted.

We encourage you to provide instructions to your brokerage firm by voting your proxy. This ensures that your shares will be voted at the meeting. You may have granted to your stockbroker discretionary voting authority over your account. Your stockbroker may be able to vote your shares depending on the terms of the agreement you have with your stockbroker.

**Who will count the votes?**

An employee of the Company's transfer agent will serve as the inspector of elections and count the votes.

**What does it mean if I get more than one proxy card?**

It means that you have multiple accounts at the transfer agent and/or with stockbrokers. Please sign and return all proxy cards to ensure that all your shares are voted.

**What constitutes a quorum?**

A quorum refers to the number of shares that must be represented at a meeting in order to lawfully conduct business. A majority of the outstanding common shares entitled to vote at the annual meeting, present in person or represented by proxy, will constitute a quorum at the meeting. Without a quorum, no business may be transacted at the annual meeting. However, whether or not a quorum exists, a majority of the voting power of those present at the annual meeting may adjourn the annual meeting to another date, time and place. Abstentions and broker nonvotes will be counted for the purpose of determining the presence or absence of a quorum for the transaction of business.

**What is a broker nonvote and how is it treated?**

A broker nonvote occurs with respect to a proposal to be voted on if a broker or other nominee does not have the discretionary authority to vote shares and has not received voting instructions from the beneficial owners with respect to such proposal. Broker nonvotes are treated as present for purposes of establishing the presence or absence of a quorum. A broker nonvote on the election of directors or the ratification of the choice of PwC as our Company's independent registered public accounting firm will not affect the results of the vote on such matters, since no absolute number of affirmative votes is required for passage of such proposals. A broker nonvote on the reincorporation proposal will act like a no vote, since the affirmative vote of the majority of *all outstanding shares* is required to approve the reincorporation.

**How are abstentions treated?**

Abstentions are equivalent to no votes for all proposals other than the election of directors, since they are counted as present and voting. Because directors are elected by a plurality of the votes cast, abstentions have no effect on the election of directors.

**What percentage of stock do the directors and executive officers own?**

Together, they owned approximately 6.1% of our common shares as of the record date. See pages 23 through 26 for more details.

**When are shareholder proposals for our next annual meeting due in order to be included in the proxy statement?**

We will consider proposals submitted by shareholders for inclusion in the proxy statement for the annual meeting to be held in 2010 if they are received no later than [ ], 2010. This date assumes that the date of our next annual meeting will not be advanced or delayed by more than 30 calendar days from the one year anniversary of the date of the current annual meeting. See page 73 for more details.

**Who is paying the cost of preparing, assembling and mailing the notice of the annual meeting of shareholders, proxy statement and form of proxy, and the solicitation of the proxies?**

The Company. We will also pay brokers and other nominees for the reasonable expenses of forwarding solicitation materials to their customers who own our common shares.

**Who may solicit proxies?**

In addition to this proxy statement, our directors, officers and other regular administrative employees may solicit proxies. None of them will receive any additional compensation for such solicitation. MacKenzie Partners, Inc., 105 Madison Avenue, New York, NY 10016, has been engaged by the Company to solicit proxies at an estimated cost of \$12,500 plus reimbursement of reasonable expenses.

**How will solicitors contact me?**

People soliciting proxies may contact you in person, by mail, by telephone, by e-mail or by facsimile.

**Does our Board have any recommendations with respect to the listed proposals?**

Our Board recommends you vote **FOR** : (1) all of its nominees for director; (2) reincorporation of the Company as a Delaware corporation; and (3) the ratification of PwC as our Company's independent registered public accounting firm for the 2009 fiscal year.

**Who are the largest principal shareholders outside of management?**



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The following table lists as of the record date the persons or groups of shareholders who are known to us to be the beneficial owners of 5% or more of our common shares. The information regarding beneficial owners of 5% or more of our common shares was gathered by us from the filings made by such owners with the Securities and Exchange Commission (the SEC) or from informal sources. Shares that may be acquired within 60 days are treated as outstanding for purposes of determining the amount and percentage beneficially owned. This table does not include shares beneficially owned by our directors and officers and entities controlled by them. See the table headed Security Ownership of Management on pages 23 through 26 for that information.

<u>Name of Beneficial Owner</u>	<u>Amount and Nature of Beneficial Ownership</u>	<u>Percent of Class</u>
Fidelity Management Trust Company	6,592,502(1)	7.0%
Highfields Capital Management LP	8,787,879(2)	9.4%

- (1) The shares set forth in the table are held as of October 12, 2009 by Fidelity Management Trust Company as trustee pursuant to The First American Corporation 401(k) Savings Plan. The investment options available to participants in the plan include a Company Stock Fund, which invests in Company common shares, as

well as amounts previously held under the Company's Employee Profit Sharing and Stock Ownership Plan ( ESOP ), which has been merged into the 401(k) Savings Plan. Thus, the table reflects the ESOP accounts as well as accounts in the Company Stock Fund. The governing documents require the trustee to vote the shares as directed by the plan participants for whose benefit the shares are held. The transfer agent will tabulate the voting directions of all participants who wish to provide such directions to Fidelity. Neither the transfer agent nor Fidelity will provide the individual or aggregate participant voting directions to the Company, unless otherwise required by law. Shares for which no direction is received by the trustee from the participants are voted in the same proportion as are the shares for which directions are received. The trustee's address is 82 Devonshire Street, Boston, Massachusetts 02109.

- (2) According to the Schedule 13D/A filed on April 14, 2008 by Highfields Capital Management LP, each of Highfields Capital Management LP, Highfields GP LLC, Highfields Associates LLC, Jonathan S. Jacobson, and Richard L. Grubman may be deemed to be the beneficial owner of 8,787,879 shares, and Highfields Capital III L.P. may be deemed the beneficial owner of 6,056,042 shares. The address of the principal business office of each of these entities and individuals is John Hancock Tower, 200 Clarendon Street, 59<sup>th</sup> Floor, Boston, Massachusetts 02116.

## II. PROPOSALS

### Item 1. Election of Directors

The Company's articles of incorporation and bylaws require that directors be elected annually, and currently fix the range of directors between 10 and 18. The bylaws permit the Board of Directors to specify the exact number of directors within the range provided in the articles of incorporation and bylaws. The Board has specified the exact number at 18 directors. The Board has nominated the 18 individuals below for election at the meeting. The 18 nominees receiving the highest number of votes will be elected to the Board, to serve until the next annual meeting or as soon thereafter as their successors are duly elected and qualified.

Votes by the Company's proxy holders will be cast in such a way as to effect the election of all nominees listed below or as many as possible under the rules of cumulative voting. **Unless otherwise specified by you in your proxy card, the proxies solicited by our Board will be voted FOR the election of these nominees.** If any nominee should become unable or unwilling to serve as a director, the proxies will be voted for such substitute nominee(s) as shall be designated by our Board. Our Board presently has no knowledge that any of the nominees will be unable or unwilling to serve.

The following list provides information with respect to each person nominated and recommended to be elected by our Board. See the section entitled "Security Ownership of Management," which begins on page 23, for information pertaining to stock ownership of the nominees. There are no family relationships among any of the nominees or any of the executive officers of the Company. The Company has appointed Messrs. Bruce S. Bennett, Matthew B. Botein, Glenn C. Christenson, Christopher V. Greetham and Thomas C. O'Brien for election to the Board pursuant to an agreement with Highfields Capital Management LP dated April 10, 2008, as discussed in the Company's Current Report on Form 8-K dated April 10, 2008. Also, pursuant to a contract, the Company is required to recommend one nominee of Experian Information Solutions, Inc. to the nominating committee as a candidate for election to the Board. Director D. Van Skilling was appointed to the Board in 1998 as Experian's nominee. There are no other arrangements or understandings between any director and any other person pursuant to which any director was or is to be selected as a director.

#### THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR THE FOLLOWING NOMINEES:

Name	Age	Principal Occupation(s) Since 2003 (arranged by title, company & industry)	Director Since	Directorships Held in Other Public Companies(1)
Hon. George L. Argyros	72	Chairman and Chief Executive Officer Arnel & Affiliates diversified investment company	2005(2)	DST Systems, Inc.
Bruce S. Bennett	51	Founding Partner Hennigan, Bennett & Dorman, LLP legal services	2008	None
Matthew B. Botein	36	Chairman (2009-present) Botein & Company, LLC private investment firm	2009	PennyMac Mortgage Investment Trust
		Managing Director (2006-2009)		Aspen Insurance Holdings Limited

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Analyst (2003-2006)  
Highfields Capital Management LP  
investment management

J. David Chatham

59 President and Chief Executive Officer  
Chatham Holdings Corporation  
real estate development and  
associated industries

1989

First Advantage Corporation

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Name	Age	Principal Occupation(s) Since 2003 (arranged by title, company & industry)	Director Since	Directorships Held in Other Public Companies(1)
Glenn C. Christenson	60	Managing Director (2007-present) Velstand Investments, LLC	2008	NV Energy, Inc.
		Executive Vice President and Chief		
		Financial Officer (1989-2007) Station Casinos, Inc. gaming and entertainment		
Hon. William G. Davis	80	Counsel Torys LLP legal services	1992	None
James L. Doti	63	President and Donald Bren Distinguished Chair of Business and Economics Chapman University education	1993	Standard Pacific Corp.
Lewis W. Douglas, Jr.	85	Chairman Stanley Energy, Inc. oil exploration	1971(3)	None
Christopher V. Greetham	64	Executive Vice President and Chief Investment Officer (1996-2006) XL Capital Ltd. property and casualty reinsurance	2008	Axis Capital Holding Limited
Parker S. Kennedy	61	Chairman of the Board and Chief Executive Officer (2003-present) President (1993-2004) The First American Corporation business information and related products and services	1987	First Advantage Corporation
Thomas C. O Brien	55	Chief Executive Officer and President Insurance Auto Auctions Inc. specialized services for automobile insurance	2008	KAR Holdings, Inc.
Frank E. O Bryan	76	Private Investor (2004-present) Chairman of the Board (1997-2003) WMC Mortgage Corporation mortgage lending	1994	Ares Capital Corporation
Roslyn B. Payne	63	President Jackson Street Partners, Ltd. real estate venture capital and investments	1988	None
John W. Peace	60	Chairman (2009-present) Deputy Chairman (2007-2009) Standard Chartered PLC banking and financial services	2009	None

Chairman (2006-present)  
Experian plc  
information, analytical and marketing services

Chairman (2002-present)  
Burberry Group plc  
apparel and accessories

Chief Executive Officer (2000-2006)  
GUS plc  
retail and business services

Name	Age	Principal Occupation(s) Since 2003 (arranged by title, company & industry)	Director Since	Directorships Held in Other Public Companies(1)
D. Van Skilling	76	President (1999-present) Skilling Enterprises private investments	1998	First Advantage Corporation and ONVIA, Inc.
Herbert B. Tasker	73	Chairman and Chief Executive Officer (2005-present) Mason McDuffie Mortgage Corporation mortgage banking  Mortgage Industry Consultant (2004-2005)  Vice Chairman and Managing Director (1999-2004) Centre Capital Group, Inc. mortgage conduit	2002	None
Virginia M. Ueberroth	69	Chairman Ueberroth Family Foundation philanthropy	1988	None
Mary Lee Widener	71	President and Chief Executive Officer (1974-present) Neighborhood Housing Services of America, Inc. nonprofit housing agency	2006	The PMI Group, Inc.

- (1) For these purposes, "Public Company" refers to a company with a class of securities registered pursuant to Section 12 of the Exchange Act or subject to the requirements of Section 15(d) of such Act or any company registered as an investment company under the Investment Company Act of 1940.
- (2) Mr. Argyros was a director of the Company from 1988 to 2001 and was the United States Ambassador to Spain and Andorra from 2001 to 2004.
- (3) Mr. Douglas also was a director of the Company from 1961 to 1967.

**Item 2. Reincorporation Under the laws of Delaware**

**OUR BOARD RECOMMENDS THAT YOU VOTE FOR THE REINCORPORATION PROPOSAL, WHICH IS DESCRIBED BELOW.**

Our Board believes that the best interests of the Company and its shareholders would be served by the Company's reincorporating under the laws of the State of Delaware (the "Reincorporation"). For purposes of the discussion of the Reincorporation, the term "First American California" refers to our Company, as it is currently incorporated, and the term "First American Delaware" refers to First American Holding Corporation, the new Delaware corporation that will be the successor to First American California if our shareholders approve the Reincorporation, the conditions to the Reincorporation are satisfied or waived and the Reincorporation is not abandoned.

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In order to change the Company's state of incorporation from California to Delaware, First American California and First American Delaware plan to enter into an Agreement and Plan of Merger, a copy of which is attached hereto as Appendix A (the "Merger Agreement"). The Merger Agreement was approved by the boards of directors of both First American California and First American Delaware. Pursuant to the Merger Agreement, subject to the conditions in the Merger Agreement, First American California will merge with and into First American Delaware, and First American Delaware will continue as the surviving corporation. Generally, if the Reincorporation is completed, the assets and liabilities of First American California will become the assets and



liabilities of First American Delaware. Each outstanding share of the common stock of First American California will automatically be converted into one share of common stock of First American Delaware, par value \$0.00001 per share, upon the effective date of the merger.

Each certificate representing shares of First American California common stock will continue to represent the same number of shares of First American Delaware's common stock. It will not be necessary for shareholders to exchange their existing share certificates for share certificates of First American Delaware, but shareholders may exchange their certificates if they so choose. New certificates for shares of First American Delaware's common stock may be obtained by surrendering certificates representing shares of presently outstanding common stock to the Company's transfer agent, Wells Fargo Shareowner Services, a division of Wells Fargo Bank, N.A., together with any documentation required to permit the exchange. Once the merger is consummated, Wells Fargo Shareowner Services will also be the transfer agent for First American Delaware.

The Reincorporation has been unanimously approved by our Board (the board of directors of First American California). California law does not grant shareholders appraisal rights in connection with mergers where the pre-merger shareholders of the corporation retain their same ownership interest in the surviving corporation. Accordingly, shareholders of First American California will have no dissenters' rights of appraisal with respect to the Reincorporation. See also [Comparison Between the Corporation Laws of California and Delaware Appraisal or Dissenters' Rights](#).

#### CONDITIONS TO THE REINCORPORATION

The Reincorporation will not be completed unless, among other requirements, each of the following conditions are satisfied or, if allowed by law, waived:

- *The stockholders of the Company approve the Reincorporation by the requisite vote.* Under California law, the affirmative vote of a majority of the outstanding shares of First American California is required for approval of the Reincorporation, the Merger Agreement and the other terms of the Reincorporation.
- *The Company completes its Separation into two independent, publicly traded companies.* On January 15, 2008, the Company announced that its Board had approved a plan to effect a separation (the [Separation](#)) of the Company into two independent, publicly traded companies: one comprised of the Company's financial services businesses and one comprised of its information solutions businesses. Under the terms of the Separation, the Company is expected to retain its information solutions businesses and distribute to its stockholders all of the common stock of a subsidiary that will own, directly or indirectly, the Company's financial services businesses. The Company is proceeding with preparations for the Separation and currently expects the separation to occur during the first half of 2010.
- *Consents Received.* The Company receives all necessary third-party consents to the Reincorporation.

The Company's Board may waive the preceding conditions, other than the shareholder approval condition, in whole or in part at any time and from time to time in its sole discretion. The Company's Board also may abandon the Reincorporation for any reason at any time.

#### EFFECTIVENESS OF THE REINCORPORATION

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If all conditions to the Reincorporation are satisfied or waived and the Reincorporation is not abandoned, the Reincorporation will be effective upon the filing of Certificates of Merger with the Secretaries of State of Delaware and California on or after December 8, 2009 (the Effective Date ). The Reincorporation may, however, be abandoned or delayed pursuant to the Merger Agreement at any time prior to the Reincorporation becoming effective, even though the Reincorporation may have been approved by the Company's stockholders and all conditions to the Reincorporation may have been satisfied or waived. The Merger Agreement may also be

amended by our Board and the board of directors of First American Delaware at any time before the Effective Date, provided that the principal terms of the Merger Agreement may not be amended without shareholder approval. If the Reincorporation is not approved by shareholders or is otherwise abandoned, the Company will remain a California corporation. In addition, if the Reincorporation is not completed on or before December 8, 2010, the Board will not proceed with the Reincorporation without again seeking the approval of the Company's stockholders.

The discussion below is qualified in its entirety by reference to the Merger Agreement, the restated certificate of incorporation of First American Delaware and the bylaws of First American Delaware, copies of which are attached hereto as Appendices A, B and C, respectively.

#### **PRINCIPAL REASONS FOR THE REINCORPORATION**