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CIT GROUP INC
Form 10-K/A
December 13, 2005

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

Form 10-K/A
Amendment No. 2 To Form 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2004

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

Commission File Number: 001-31369

CIT Group Inc.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation or organization)

65-1051192
(IRS Employer
Identification No.)

1211 Avenue of the Americas, New York, New York
(Address of principal executive offices)

10036
(Zip Code)

Registrant's telephone number including area code: (212) 536-1211

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

| Title of each class ----- | Name of each exchange on which registered ----- |
|---|---|
| Common Stock, par value \$0.01 per share..... | New York Stock Exchange |
| 5 7/8% Notes due October 15, 2008..... | New York Stock Exchange |

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

None

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 is an accelerated filer as defined in Rule 12b-2 of the Act of 1934. Yes No .

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Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (229.405 of this Chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. o

The aggregate market value of voting common stock held by non-affiliates of the registrant, based on the New York Stock Exchange Composite Transaction closing price of Common Stock (\$38.29 per share, 210,700,091 shares of common stock outstanding), which occurred on June 30, 2004, was \$8,067,706,484. For purposes of this computation, all officers and directors of the registrant are deemed to be affiliates. Such determination shall not be deemed an admission that such officers and directors are, in fact, affiliates of the registrant. At February 15, 2005, 210,851,464 shares of CIT's common stock, par value \$0.01 per share, were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

List here under the following documents if incorporated by reference and the Part of the Form 10-K (e.g., Part I, Part II, etc.) into which the document is incorporated: (1) Any annual report to security holders; (2) Any proxy or information statement; and (3) Any prospectus filed pursuant to Rule 424 (b) or (c) under the Securities Act of 1933. The listed documents should be clearly described for identification purposes (e.g., annual report to security holders for fiscal year ended December 24, 1980).

Portions of the registrant's definitive proxy statement relating to the 2005 Annual Meeting of Stockholders are incorporated by reference into Part III hereof to the extent described herein.

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Overview

We are filing this amendment to our Form 10-K for the fiscal year ended December 31, 2004 to restate Management's Report on Internal Control Over Financial Reporting included in Item 9A Controls and Procedures.

During the fourth quarter of 2005, we determined that certain compound derivatives did not qualify for hedge accounting treatment from their inception, which caused us to restate the financial statements for the quarters ended March 31, June 30, and September 30, 2005 and file amended Form 10-Q's for those periods. See Item 9A -- Management's Report on Internal Control Over Financial Reporting (Restated) for a description of the control deficiency identified. This control deficiency did not result in any material adjustments to the 2004 annual or interim consolidated financial statements. Management concluded that this control deficiency constitutes a material weakness as of December 31, 2004 due to the fact that its existence could result in a material misstatement to annual or interim consolidated financial statements that would not be prevented or detected.

As of the date of this filing, we have fully remediated this material weakness relating to derivative documentation and hedge accounting treatment.

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Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.

None

Item 9A. Controls and Procedures.

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders of
CIT Group Inc.:

We have completed an integrated audit of CIT Group Inc.'s December 31, 2004 consolidated financial statements and of its internal control over financial reporting as of December 31, 2004 and audits of its December 31, 2003, December 31, 2002 and September 30, 2002 consolidated financial statements in accordance with the standards of the Public Company Accounting Oversight Board (United States). Our opinions, based on our audits, are presented below.

Consolidated financial statements (not presented herein)

In our opinion, the consolidated financial statements listed in the index appearing under Item 15(a)(1) of the Form 10-K for the year ended December 31, 2004 present fairly, in all material respects, the financial position of CIT Group Inc. and its subsidiaries at December 31, 2004 and 2003, and the results of their operations and their cash flows for the years ended December 31, 2004 and 2003, the three months ended December 31, 2002 and the fiscal year ended September 30, 2002 in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits of these statements in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit of financial statements includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

Internal control over financial reporting

Also, we have audited management's assessment, included in Management's Report on Internal Control Over Financial Reporting (Restated) appearing under Item 9A, that CIT Group Inc. did not maintain effective internal control over financial reporting as of December 31, 2004, because the Company did not maintain effective controls over (A) the reconciliations of the differences between the tax basis and book basis of each component of the Company's balance sheet with the deferred tax asset and liability accounts and (B) the classification and related valuation and documentation over certain of its compound derivative transactions, specifically certain cross-currency interest rate swaps used to hedge the Company's foreign-denominated debt, based on criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal

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control over financial reporting. Our responsibility is to express opinions on management's assessment and on the effectiveness of the Company's internal control over financial reporting based on our audit.

We conducted our audit of internal control over financial reporting in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. An audit of internal control over financial reporting includes obtaining an understanding of internal control over financial reporting, evaluating management's assessment, testing and evaluating the design and operating effectiveness of internal control, and performing such other procedures as we consider necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinions.

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A company's internal control over financial reporting is a process designed 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. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

A material weakness is a control deficiency, or combination of control deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected. The following material weaknesses have been identified and included in management's assessment as of December 31, 2004.

- (A) The Company did not maintain effective controls over the reconciliations of the differences between the tax basis and book basis of each component of the Company's balance sheet with the deferred tax asset and liability accounts. The control deficiency did not result in any adjustments to the 2004 annual or interim consolidated financial statements. However, this control deficiency results in more than a remote likelihood that a material misstatement to the deferred tax asset and liability accounts, and income tax provision will not be prevented or detected in the annual or interim financial statements. Accordingly, management has determined that this condition constitutes a material weakness.
- (B) The Company did not maintain effective controls over the classification

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and related valuation and documentation of certain of its compound derivative transactions, specifically certain cross-currency interest rate swaps used to hedge the Company's foreign-denominated debt. This control deficiency did not result in a material misstatement to the 2004 annual or interim consolidated financial statements. However, this control deficiency resulted in the restatement of the Company's 2005 first, second and third quarter interim consolidated financial statements. This control deficiency could result in the misstatement of derivative related accounts including other revenue, debt and other comprehensive income that would result in a material misstatement of the annual or interim financial statements that would not be prevented or detected. Accordingly, management has concluded that this control deficiency constitutes a material weakness.

These material weaknesses were considered in determining the nature, timing, and extent of audit tests applied in our audit of the December 31, 2004 consolidated financial statements, and our opinion regarding the effectiveness of the Company's internal control over financial reporting does not affect our opinion on those consolidated financial statements.

In our opinion, management's assessment that CIT Group Inc. did not maintain effective internal control over financial reporting as of December 31, 2004, is fairly stated, in all material respects, based on criteria established in Internal Control - Integrated Framework issued by the COSO. Also, in our opinion, because of the effect of the material weaknesses described above on the achievement of the objectives of the control criteria, CIT Group Inc. has not maintained effective internal control over financial reporting as of December 31, 2004, based on criteria established in Internal Control - Integrated Framework issued by the COSO.

Management and we previously concluded that the Company did not maintain effective internal control over financial reporting as of December 31, 2004 because of the material weakness described in (A) above. Subsequent to the issuance of our reports, management determined that the material weakness described in (B) above also

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existed as of December 31, 2004. Accordingly, Management's Report on Internal Control Over Financial Reporting and our opinion on the effectiveness of internal control over financial reporting have been restated to include this additional material weakness.

PricewaterhouseCoopers LLP
New York, New York
March 4, 2005, except for the matter described in the penultimate paragraph of Management's Report on Internal Control Over Financial Reporting as to which the date is December 12, 2005

Conclusion Regarding the Effectiveness of Disclosure Controls and Procedures
(Restated)

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Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of our disclosure controls and procedures, as such term is defined under Rule 13a-15(e) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Based on this evaluation, our principal executive officer and our principal financial officer concluded that our disclosure controls and procedures were not effective as of the end of the period covered by this annual report because of the material weaknesses discussed below.

Management's Report on Internal Control Over Financial Reporting (Restated)

Management of CIT is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is identified in Exchange Act Rule 13a-15(f). Internal control over financial reporting is a process designed 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. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Management of CIT, including our principal executive officer and principal financial officer, conducted an evaluation of the effectiveness of the Company's internal control over financial reporting as of December 31, 2004 using the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control -- Integrated Framework. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

A material weakness is a control deficiency, or combination of control deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected.

As of December 31, 2004, the Company did not maintain effective controls over the reconciliations of the differences between the tax basis and book basis of each component of the Company's balance sheet with the deferred tax asset and liability accounts. The control deficiency did not result in any adjustments to the 2004 annual or interim consolidated financial statements. However, this control deficiency results in more than a remote likelihood that a material misstatement to the deferred tax asset and liability accounts and income tax provision will not be prevented or detected in the annual or interim consolidated financial statements. Accordingly, management has determined that this condition constitutes a material weakness.

As of December 31, 2004, the Company did not maintain effective controls over the classification and related valuation and documentation of certain of its compound derivative transactions, specifically certain cross-currency

interest rate swaps used to hedge the Company's foreign-denominated debt. This control deficiency did not result in a material misstatement to the 2004 annual or interim consolidated financial statements. This control deficiency resulted in the restatement of the Company's 2005 first, second and third quarter interim consolidated financial statements. In addition, this control deficiency could result in the misstatement of derivative related accounts, including other revenue, debt and other comprehensive income that would result in a material misstatement of the annual or interim financial statements, that would not be prevented or detected. Accordingly, management has concluded that this control deficiency constitutes a material weakness as of December 31, 2004.

Based on management's evaluation under the criteria in Internal Control - Integrated Framework issued by the COSO, management has concluded that CIT did not maintain effective internal control over financial reporting as of December 31, 2004 because of the effect of the material weaknesses described above.

Management previously concluded that the Company did not maintain effective internal controls over financial reporting as of December 31, 2004 because of the income tax-related material weakness described above. Subsequent to the issuance of our report management determined that the derivative-related material weakness described above also existed as of December 31, 2004. Accordingly, we have restated our report on internal control over financial reporting to include this additional material weakness.

Management's restated assessment of the effectiveness of the Company's internal control over financial reporting as of December 31, 2004 has been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm, as stated in their report (which expressed an unqualified opinion on management's assessment and an adverse opinion on the effectiveness of the Company's internal control over financial reporting as of December 31, 2004) which appears herein.

Changes in Internal Control Over Financial Reporting

Derivative Hedge Accounting

During the fourth quarter of 2005, we learned of an interpretation with respect to applying the "matched terms" approach in hedge accounting under Statement of Financial Accounting Standards No. 133, Accounting for Derivative Instruments and Hedging Activities, as amended ("SFAS 133"). We reviewed our accounting for certain cross-currency interest rate swaps ("compound swaps" or "compound derivatives") under SFAS 133.

We determined that certain compound swaps were not appropriately accounted for, even though these swaps were highly effective economic hedges of the interest rate and currency exchange risks associated with corresponding foreign denominated debt. We documented these swaps originally as "matched terms" hedges, which assumes no hedge ineffectiveness. The swaps would have qualified for "long-haul" hedge accounting, with ineffectiveness reflected in current earnings. However, the swaps did not qualify for hedge accounting treatment from their inception, as SFAS 133 does not allow for subsequent documentation modifications.

The elimination of hedge accounting from inception of the compound swaps resulted in restatements of originally reported earnings in each of the quarterly periods of 2005 to reflect the elimination of adjustments to the

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corresponding debt under SFAS 133 fair value hedge accounting for changes in interest rates during each period. These adjustments to earnings will reduce future earnings by an equal amount through 2015.

In connection with this restatement, under the direction of our principal executive officer and our principal financial officer, we determined that the above constituted a material weakness in internal control with respect to our accounting treatment and related hedge documentation for certain cross-currency swaps as of December 31, 2004.

As of the date of this filing, we have fully remediated this material weakness relating to derivative documentation and hedge accounting treatment. Our remediation actions included the following:

- o All of the subject compound swaps have been replaced with corresponding stand alone replacement swaps (a cross-currency basis swap and an interest rate swap, both with zero fair value at inception), which qualify for hedge accounting treatment under SFAS 133.
- o We do not intend to transact compound swaps prospectively and have communicated a formal prohibition against such transactions to the appropriate treasury, accounting, legal and internal audit personnel.

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- o We have updated our derivative policy manual to specifically prohibit the use of compound swaps.
- o We have conducted training sessions with the appropriate treasury, accounting, legal and internal audit personnel with respect to the above to ensure that we evaluate and document derivative transactions in compliance with SFAS 133.

Income Tax Accounting

As discussed above, management has determined that the lack of a control to reconcile the difference between the tax basis and book basis of each component of the Company's balance sheet with the deferred tax asset and liability accounts constitutes a material weakness in internal control over financial reporting. Management has performed alternative analyses and reconciliations of the income tax balance sheet and income statement accounts and based thereon believes that the 2004 income tax provision is appropriate and that the remediation will not result in a material adjustment to the Company's reported balance sheet or net income as of or for the year ended December 31, 2004.

In connection with the June 2001 acquisition by Tyco, our income tax compliance, reporting and planning function was transferred to Tyco. This caused a lapse in maintaining, developing and implementing changes to various income tax financial reporting processes that are currently required. Following our 2002 IPO, we classified our tax reporting as a "reportable condition", as defined by standards established by the American Institute of Certified Public Accountants. As previously reported, we have made substantial progress with respect to the reportable condition by hiring and training personnel, rebuilding

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tax reporting systems, preparing amendments to prior U.S. Federal income tax returns, and implementing processes and controls with respect to income tax reporting and compliance. Throughout 2004, we continued to develop the processes and controls to complete an analysis of our income tax asset and liability accounts, including the refinement of and reconciliation to transactional level detail of book to tax differences.

As of the end of the period covered by this report, we have not fully remediated the material weakness in the Company's internal control over income tax deferred assets and liabilities. In this regard, we have conducted the following remedial actions:

- o Established a 2005 remediation plan to compute the book to tax basis differences at an asset and liability transactional level, including documentation, testing and periodic updates to senior management and the Audit Committee;
- o Further enhanced, and will continue to enhance, data processing capabilities to automate and better control the calculation of book to tax assets and liabilities at the transactional level; and
- o Continued to develop procedures and processes to prove the changes in the book to tax basis of our assets and liabilities that occur in interim and annual financial reporting periods.

Other than the changes discussed above, with respect to income tax accounting and derivative hedge accounting, there have been no changes to the Company's internal control over financial reporting that occurred since the beginning of the Company's fourth quarter of 2004 that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

Item 9B. Other Information.

None

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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.

CIT GROUP INC.

By: /s/ ROBERT J. INGATO

 Robert J. Ingato
 Executive Vice President, General Counsel
 and Secretary

December 13, 2005

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on December 13, 2005 in the capacities indicated below.

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| Name ---- | Date ---- |
|---|-------------------|
| /S/ JEFFREY M. PEEK Jeffrey M. Peek Chairman and Chief Executive Officer and Director | December 13, 2005 |
| GARY C. BUTLER* Gary C. Butler Director | |
| WILLIAM FREEMAN William Freeman Director | |
| THOMAS H. KEAN* Thomas H. Kean Director | |
| EDWARD J. KELLY, III* Edward J. Kelly, III Director | |
| MARIANNE MILLER PARRS* Marianne Miller Parrs Director | |
| TIMOTHY M. RING* Timothy M. Ring Director | |
| JOHN RYAN* John Ryan Director | |
| Seymour Sternberg Director | |
| PETER J. TOBIN* Peter J. Tobin Director | |
| LOIS M. VAN DEUSEN* | |

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.....
Lois M. Van Deusen
Director

/S/ JOSEPH M. LEONE

.....
Joseph M. Leone
Vice Chairman and
Chief Financial Officer

/s/ WILLIAM J. TAYLOR

.....
William J. Taylor
Executive Vice President, Controller and
Principal Accounting Officer

*By: /S/ ROBERT J. INGATO

.....
Robert J. Ingato
Executive Vice President, General Counsel
and Secretary

* Original powers of attorney authorizing Robert Ingato, and James P. Shanahan and each of them to sign on behalf of the above-mentioned directors are held by the Corporation and available for examination by the Securities and Exchange Commission pursuant to Item 302(b) of Regulation S-T.