

ANNALY CAPITAL MANAGEMENT INC

Form 424B5

May 11, 2012

**CALCULATION OF REGISTRATION FEE**

Title of each class of securities to be registered	Proposed maximum aggregate offering price	Amount of registration fee <sup>(1)</sup>
7.625% Series C Cumulative Redeemable Preferred Stock	\$316,250,000	\$36,243

(1) Calculated in accordance with Rule 457(r) of the Securities Act of 1933, as amended (or the Securities Act).

**Filed Pursuant to Rule 424B5**

**File Number 333-164783**

PROSPECTUS SUPPLEMENT  
(To Prospectus Dated February 8, 2010)

**11,000,000 Shares**

**7.625% Series C Cumulative Redeemable Preferred Stock**  
**(Liquidation Preference \$25.00 Per Share)**

We are offering 11,000,000 shares of our 7.625% Series C Cumulative Redeemable Preferred Stock, which we refer to in this prospectus supplement as the Series C Preferred Stock. This is an original issuance of the Series C Preferred Stock. We will pay quarterly cumulative dividends on the Series C Preferred Stock, in arrears, on March 31, June 30, September 30 and December 31 of each year (provided that if any dividend payment date is not a business day, then the dividend which would otherwise have been payable on that dividend payment date may be paid on the next succeeding business day) from, and including, the date of original issuance at 7.625% of the \$25.00 per share liquidation preference per annum (equivalent to \$1.90625 per annum per share). The first dividend payable on June 30, 2012 in the amount of \$0.238281 per share will be paid to the persons who are the holders of record of the Series C Preferred Stock at the close of business on June 1, 2012.

The Series C Preferred Stock will not be redeemable before May 16, 2017, except under circumstances intended to preserve our qualification as a real estate investment trust for federal income tax purposes, or REIT, and except as described below upon the occurrence of a Change of Control (as defined herein). On or after May 16, 2017, we may, at our option, redeem any or all of the shares of the Series C Preferred Stock at \$25.00 per share plus any accumulated and unpaid dividends to, but not including, the redemption date. In addition, upon the occurrence of a Change of Control, we may, at our option, redeem any or all of the shares of Series C Preferred Stock within 120 days after the first date on which such Change of Control occurred at \$25.00 per share plus any accumulated and unpaid dividends to, but not including, the redemption date. The Series C Preferred Stock has no stated maturity, is not subject to any sinking fund or mandatory redemption and will remain outstanding indefinitely unless repurchased or redeemed by us or converted into our common stock in connection with a Change of Control by the holders of Series C Preferred Stock.

Upon the occurrence of a Change of Control, each holder of Series C Preferred Stock will have the right (subject to our election to redeem the Series C Preferred Stock in whole or in part, as described above, prior to the Change of Control Conversion Date (as defined herein)) to convert some or all of the Series C Preferred Stock held by such holder on the Change of Control Conversion Date into a number of shares of our common stock per share of Series C Preferred Stock equal to the lesser of:

the quotient obtained by dividing (i) the sum of the \$25.00 liquidation preference per share of the Series C Preferred Stock plus the amount of any accumulated and unpaid dividends thereon to, but not including, the Change of Control Conversion Date (unless the Change of Control Conversion Date is after a dividend record date (as defined herein) and

## Edgar Filing: ANNALY CAPITAL MANAGEMENT INC - Form 424B5

prior to the corresponding dividend payment date (as defined herein) for the Series C Preferred Stock, in which case no additional amount for such accrued and unpaid dividends will be included in this sum) by (ii) the Common Stock Price (as defined herein); and

3.0266 (or the Share Cap), subject to certain adjustments as described herein; in each case, on the terms and subject to the conditions described in this prospectus supplement, including provisions for the receipt, under specified circumstances, of alternative consideration as described in this prospectus supplement.

No current market exists for the Series C Preferred Stock. We intend to apply to list the Series C Preferred Stock on the New York Stock Exchange under the symbol NLYPrC. If the application is approved, trading of the Series C Preferred Stock on the NYSE is expected to begin within 30 days after the date of initial issuance of the Series C Preferred Stock.

There are restrictions on ownership of the Series C Preferred Stock intended to preserve our qualification as a REIT. Please see the sections entitled "Description of the Series C Preferred Stock" "Restrictions on Ownership and Transfer" in this prospectus supplement and "Restrictions On Ownership and Transfer" in the accompanying prospectus. In addition, except under limited circumstances as described in this prospectus supplement, holders of the Series C Preferred Stock generally do not have any voting rights.

Concurrently with this offering of Series C Preferred Stock, pursuant to a separate prospectus supplement, we are offering \$750.0 million aggregate principal amount of 5.00% Convertible Senior Notes due 2015 (or \$862.5 million aggregate principal amount of 5.00% Convertible Senior Notes due 2015 if the underwriters fully exercise their over-allotment option with respect to that offering), which we refer to in this prospectus supplement as the Concurrent Offering. Neither the completion of this offering nor the completion of the Concurrent Offering is contingent on the completion of the other.

The underwriters have an option to purchase a maximum of 1,650,000 additional shares of Series C Preferred Stock to cover overallotments.

**Investing in the Series C Preferred Stock involves risks that are described under the caption "Risk Factors" beginning on page S-9 of this prospectus supplement, in the accompanying prospectus and in our Annual Report on Form 10-K for the fiscal year ended December 31, 2011, which is incorporated by reference in this prospectus supplement and the accompanying prospectus. The Series C Preferred Stock has not been rated and is subject to risks associated with non-rated securities.**

	<u>Per Share</u>	<u>Total(1)</u>
Public offering price	\$ 25.0000	\$ 275,000,000
Underwriting discount	\$ 0.7875	\$ 8,662,500
Proceeds to us (before expenses)	\$ 24.2125	\$ 266,337,500

(1) Assumes no exercise of the underwriters' over-allotment option.

The underwriters expect to deliver the shares of Series C Preferred Stock to purchasers on or about May 16, 2012, only in book-entry form through the facilities of The Depository Trust Company.

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities, or determined if this prospectus supplement or the accompanying prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

*Joint Lead Book-Running Managers*

**BofA Merrill Lynch**

**J.P. Morgan**

**Morgan Stanley**

**UBS Investment  
Bank**

*Co-Managers*

**Barclays**

**Credit Suisse**

**Deutsche Bank Securities**

**Goldman, Sachs & Co.**

**RBC Capital Markets**

**Stifel Nicolaus Weisel**

The date of this prospectus supplement is May 9, 2012

---

## TABLE OF CONTENTS

### Prospectus Supplement

<u>Prospectus Supplement Summary</u>	S-1
<u>Risk Factors</u>	S-9
<u>Use of Proceeds</u>	S-14
<u>Ratios of Earnings to Combined Fixed Charges and Preferred Dividends</u>	S-14
<u>Description Of The Series C Preferred Stock</u>	S-15
<u>Additional Material U.S. Federal Income Tax Considerations</u>	S-29
<u>Underwriting</u>	S-33
<u>Legal Matters</u>	S-38
<u>Incorporation of Certain Documents by Reference</u>	S-38

### Prospectus

About this Prospectus	1
A Warning About Forward-Looking Statements	2
About Annaly Capital Management, Inc.	4
Risk Factors	4
Use of Proceeds	5
Ratio of Earnings to Fixed Charges and of Earnings to Combined Fixed Charges and Preferred Stock Dividends	5
Description of Equity Securities	5
Description of Debt Securities	12
Restrictions on Ownership and Transfer	33
Certain Provisions of Maryland Law and Our Charter and Bylaws	35
Material Federal Income Tax Considerations	38
Plan of Distribution	61
Experts	62
Legal Matters	63
Where You Can Find More Information	63
Incorporation of Certain Documents by Reference	63

This document is in two parts. The first part is the prospectus supplement, which describes the terms of this offering and adds to and updates information contained in the accompanying prospectus. The second part, the prospectus, provides more general information, some of which may not apply to this offering. Generally, when we refer to this prospectus, we are referring to both parts of this document combined. To the extent there is a conflict between the information contained in this prospectus supplement, on the one hand, and the information contained in the accompanying prospectus, on the other hand, you should rely on the information contained in this prospectus supplement.

We are responsible for the information contained in, or incorporated by reference into, this prospectus supplement and the accompanying prospectus. We have not, and the underwriters have not, authorized anyone to provide additional information or information different from that contained or incorporated by reference in this prospectus supplement and the accompanying prospectus. If anyone provides you with different or inconsistent information, you should not rely on it. This prospectus supplement and the accompanying prospectus do not constitute an offer to sell, or a solicitation of an offer to purchase, the securities offered by this prospectus supplement and the accompanying prospectus in any jurisdiction where it is unlawful to make such offer or solicitation. Neither the delivery of this prospectus supplement nor the sale of shares of Series C Preferred Stock means that information contained or incorporated by reference in this prospectus supplement and the accompanying prospectus is correct after their respective dates.

**A WARNING ABOUT FORWARD-LOOKING STATEMENTS**

Certain statements contained in this prospectus supplement, the accompanying prospectus and in the documents incorporated by reference herein and therein may not be based on historical facts and are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (or the Securities Act), and Section 21E of the Securities Exchange Act of 1934, as amended (or the Exchange Act). Forward-looking statements, which are based on various assumptions (some of which are beyond our control), may be identified by reference to a future period or periods or by the use of forward-looking terminology, such as may, will, believe, expect, anticipate, continue, or similar or variations on those terms or the negative of those terms. The forward-looking statements in this prospectus supplement include the statements relating to the concurrent convertible notes offering, including whether and when such offering may be consummated and the potential terms and size of such offering. See The Offering Concurrent Offering included in this prospectus supplement. Actual results could differ materially from those set forth in forward-looking statements due to a variety of factors, including, but not limited to:

changes in interest rates;

changes in the yield curve;

changes in prepayment rates;

the availability of mortgage-backed securities and other securities for purchase;

the availability of financing and, if available, the terms of any financings;

changes in the market value of our assets;

changes in business conditions and the general economy;

our ability to consummate any contemplated investment opportunities;

risks associated with the investment advisory business of our wholly owned subsidiaries, including:

- the removal by clients of assets managed;
- their regulatory requirements; and
- competition in the investment advisory business;

risks associated with the broker-dealer business of our wholly-owned subsidiary;

changes in government regulations affecting our business;

our ability to maintain our exemption from registration under the Investment Company Act of 1940;

our ability to maintain our qualification as a REIT; and

the use of proceeds from this offering.

No forward-looking statements can be guaranteed and actual future results may vary materially and we caution you not to place undue reliance on these forward-looking statements. For a discussion of the risks and uncertainties which could cause actual results to differ from those contained in the forward-looking statements, please see the risks set forth under the caption Risk Factors in this prospectus supplement, in the accompanying prospectus and in our Annual Report on Form 10-K for the fiscal year ended December 31, 2011, which is incorporated by reference herein. We do not undertake, and specifically disclaim any obligation, to publicly release the result of any

revisions which may be made to any forward-looking statements to reflect the occurrence of anticipated or unanticipated events or circumstances after the date of such statements.

## PROSPECTUS SUPPLEMENT SUMMARY

*The following summary highlights information contained elsewhere or incorporated by reference in this prospectus supplement and the accompanying prospectus. It may not contain all of the information that is important to you. Before making a decision to invest in our Series C Preferred Stock, you should read carefully this entire prospectus supplement and the accompanying prospectus, including the risks set forth under the caption "Risk Factors" in this prospectus supplement, the accompanying prospectus and our Annual Report on Form 10-K for the fiscal year ended December 31, 2011, which are incorporated by reference in this prospectus supplement and the accompanying prospectus. This summary is qualified in its entirety by the more detailed information and financial statements, including the notes thereto, appearing elsewhere or incorporated by reference in this prospectus supplement and the accompanying prospectus. All references to we, our and us in this prospectus supplement mean Annaly Capital Management, Inc. and all entities owned by us except where it is made clear that the term means only the parent company. The term you refers to a prospective investor. The following defines certain of the commonly used terms in this prospectus supplement: Agency refers to a federally chartered corporation, such as Fannie Mae or Freddie Mac, or an agency of the U.S. Government, such as Ginnie Mae; and Agency mortgage-backed securities refers to residential mortgage-backed securities that are issued or guaranteed by an Agency. Unless otherwise indicated, the information in this prospectus supplement assumes that the underwriters over-allotment option is not exercised.*

### The Company

We own, manage, and finance a portfolio of real estate related investments, including mortgage pass-through certificates, collateralized mortgage obligations, Agency callable debentures, and other securities representing interests in or obligations backed by pools of mortgage loans. Our principal business objective is to generate net income for distribution to our stockholders from the spread between the interest income on our assets and the cost of borrowings to finance our acquisition of assets and from dividends we receive from our subsidiaries. Our wholly-owned subsidiaries offer diversified real estate, asset management and other financial services.

We are a Maryland corporation that commenced operations on February 18, 1997. We are self-advised and self-managed. We have elected and believe that we are organized and have operated in a manner that enables us to be taxed as a REIT under the Internal Revenue Code of 1986, as amended (or the Code). If we qualify for taxation as a REIT, we generally will not be subject to federal income tax on our taxable income that is distributed to our stockholders. Therefore, substantially all of our assets, other than Fixed Income Discount Advisory Company (or FIDAC), Merganser Capital Management, Inc. and RCap Securities, Inc. (or RCap), which are our taxable REIT subsidiaries, consist of qualified REIT real estate assets (of the type described in Section 856(c)(5)(B) of the Code). We have financed our purchases of Agency mortgage-backed securities and Agency debentures with the net proceeds of equity offerings and borrowings under repurchase agreements whose interest rates adjust based on changes in short-term market interest rates.

To ensure we qualify as a REIT, no person may own more than 9.8% of the outstanding shares of any class of our common stock or any series of our preferred stock, unless our Board of Directors waives this limitation.

### Recent Developments

#### *Concurrent Convertible Notes Offering*

Concurrently with this offering, we are offering, by means of a separate prospectus supplement, \$750.0 million aggregate principal amount of 5.00% Convertible Notes due 2015 (or the Convertible Notes) (\$862.5 million aggregate principal amount if the underwriters fully exercise their over-allotment option with respect to that offering). We refer to the concurrent offering of Convertible Notes as the Concurrent Offering. The Convertible Notes will mature on May 15, 2015 unless earlier repurchased or converted, and pay interest semiannually in arrears on November 15 and May 15 of each year, commencing November 15, 2012, at a rate of 5.00% per year. Subject to adjustment under certain circumstances, the initial conversion rate of the Convertible Notes is 52.7969 shares of our common stock per \$1,000 principal amount of Convertible Notes, equivalent to a conversion price of approximately \$18.94 per share of common stock.

Assuming no exercise of the underwriters' over-allotment option, we expect net proceeds of approximately \$727.3 million from the offering of the Convertible Notes, after deducting the estimated offering expenses. We intend to use the net proceeds from the Concurrent Offering in the same manner as the use of proceeds for this offering. See Use of Proceeds. Neither of the offerings is conditioned upon the consummation of the other. There can be no assurance that the Concurrent Offering will be consummated.

***Conversion of Series B Preferred Stock***

On April 3, 2012, we completed the conversion of all of our outstanding shares of 6% Series B Cumulative Convertible Preferred Stock (or Series B Preferred Stock) into shares of our common stock in accordance with the terms of our Series B Preferred Stock. In the conversion, 771,737 shares of Series B Preferred Stock were converted into 2,362,595 shares of our common stock.

***Dividend***

On March 20, 2012, our Board of Directors declared a first quarter 2012 common stock cash dividend of \$0.55 per share of common stock. This dividend was paid on April 26, 2012 to common shareholders of record on March 30, 2011.

**Corporate Information**

Our principal executive offices are located at 1211 Avenue of Americas, Suite 2902, New York, New York 10036. Our telephone number is (212) 696-0100. Our website is <http://www.annaly.com>. The contents of our website are not a part of this prospectus supplement or the accompanying prospectus. Our shares of common stock are traded on the New York Stock Exchange (or NYSE) under the symbol NLY.

## THE OFFERING

Issuer	Annaly Capital Management, Inc.
Securities offered	11,000,000 shares of 7.625% Series C Cumulative Redeemable Preferred Stock, plus up to an additional 1,650,000 shares if the underwriters exercise their over-allotment option in full.
Dividends	<p>Holder of the Series C Preferred Stock will be entitled to receive cumulative cash dividends at a rate of 7.625% per annum of the \$25.00 per share liquidation preference (equivalent to \$1.90625 per annum per share).</p> <p>Dividends will be payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year, provided that if any dividend payment date is not a business day, then the dividend which would otherwise have been payable on that dividend payment date may be paid on the next succeeding business day. Dividends will accrue and be cumulative from, and including, the date of original issuance, which is expected to be May 16, 2012. The first dividend payable on June 30, 2012 in the amount of \$0.238281 per share will be paid to the persons who are the holders of record of the Series C Preferred Stock at the close of business on the corresponding record date, which will be June 1, 2012.</p>
No maturity	The Series C Preferred Stock has no stated maturity and will not be subject to any sinking fund or mandatory redemption. Shares of the Series C Preferred Stock will remain outstanding indefinitely unless we decide to redeem or otherwise repurchase them or they become convertible and are converted as described below under Conversion Rights. We are not required to set aside funds to redeem the Series C Preferred Stock.
Optional Redemption	The Series C Preferred Stock is not redeemable by us prior to May 16, 2017, except under circumstances intended to preserve our qualification as a REIT and except as described below under Special Optional Redemption. On and after May 16, 2017, we may, at our option, redeem the Series C Preferred Stock, in whole or in part, at any time or from time to time, for cash at a redemption price equal to \$25.00 per share, plus any accumulated and unpaid dividends to, but not including, the date fixed for redemption. See Description of the Series C Preferred Stock Redemption Optional Redemption.
Special Optional Redemption	Upon the occurrence of a Change of Control, we may, at our option, redeem the Series C Preferred Stock, in whole or in part, within 120 days after the first date on which such Change of Control occurred, for cash at a redemption price of \$25.00 per share, plus any accumulated and unpaid dividends to, but not including, the date fixed for redemption. If, prior to the Change of Control Conversion Date (as defined herein), we have provided notice of our election to redeem some or all of the shares of Series C Preferred Stock (whether pursuant to our optional

redemption right described above or this special optional redemption right), the holders of Series C Preferred Stock will not have the conversion right described below under **Conversion Rights** with respect to the shares of Series C Preferred Stock called for redemption. Please see the section entitled **Description of the Series C Preferred Stock Redemption Special Optional Redemption** in this prospectus supplement.

A **Change of Control** is deemed to occur when, after the original issuance of the Series C Preferred Stock, the following have occurred and are continuing:

- § the acquisition by any person, including any syndicate or group deemed to be a person under Section 13(d)(3) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, of beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of purchases, mergers or other acquisition transactions of our stock entitling that person to exercise more than 50% of the total voting power of all our stock entitled to vote generally in the election of our directors (except that such person will be deemed to have beneficial ownership of all securities that such person has the right to acquire, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition); and
- § following the closing of any transaction referred to in the bullet point above, neither we nor the acquiring or surviving entity has a class of common securities (or American Depositary Receipts representing such securities) listed on the New York Stock Exchange (or the NYSE), the NYSE Amex Equities (or the NYSE Amex) or the Nasdaq Stock Market (or Nasdaq), or listed or quoted on an exchange or quotation system that is a successor to the NYSE, the NYSE Amex or Nasdaq.

#### Conversion Rights

Upon the occurrence of a Change of Control, each holder of Series C Preferred Stock will have the right subject to our election to redeem the Series C Preferred Stock in whole or part, as described above under **Optional Redemption** or **Special Optional Redemption**, prior to the Change of Control Conversion Date to convert some or all of the Series C Preferred Stock held by such holder on the Change of Control Conversion Date into a number of shares of our common stock per share of Series C Preferred Stock equal to the lesser of:

- § the quotient obtained by dividing (i) the sum of the \$25.00 liquidation preference per share of Series C Preferred Stock plus the amount of any accumulated and unpaid dividends thereon to, but not including, the Change of Control Conversion Date (unless the Change of Control Conversion Date is after a dividend record date (as defined herein) and prior to the

corresponding dividend payment date (as defined herein) for the Series C Preferred Stock, in which case no additional amount for such accrued and unpaid dividends will be included in this sum) by (ii) the Common Stock Price (as defined herein); and

§ 3.0266 (or the Share Cap ), subject to adjustments to the Share Cap for any splits, subdivisions or combinations of our common stock;

in each case, on the terms and subject to the conditions described in this prospectus supplement, including provisions for the receipt, under specified circumstances, of alternative consideration as described in this prospectus supplement.

For definitions of Change of Control Conversion Right, Change of Control Conversion Date and Common Stock Price and a description of certain adjustments and provisions for the receipt of alternative consideration that may be applicable to the conversion of Series C Preferred Stock in the event of a Change of Control, and for other important related information, please see the section entitled Description of the Series C Preferred Stock Conversion Rights.

Liquidation Preference

If we liquidate, dissolve or wind up, holders of the Series C Preferred Stock will have the right to receive \$25.00 per share, plus any accumulated and unpaid dividends to, but not including, the date of payment, before any payment is made to the holders of our common stock. Please see the section entitled Description of the Series C Preferred Stock Liquidation Preference.

Ranking

The Series C Preferred Stock will rank, with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up, (1) senior to all classes or series of our common stock and to all other equity securities issued by us other than equity securities referred to in clauses (2) and (3); (2) on a parity with our 7.875% Series A Cumulative Redeemable Preferred Stock (or Series A Preferred Stock) and all equity securities issued by us with terms specifically providing that those equity securities rank on a parity with the Series C Preferred Stock with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up; (3) junior to all equity securities issued by us with terms specifically providing that those equity securities rank senior to the Series C Preferred Stock with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up; and (4) effectively junior to all of our existing and future indebtedness, including indebtedness convertible to our common stock or preferred stock (including the Convertible Notes being offered concurrently with this offering), and to the indebtedness of our existing subsidiaries and any future subsidiaries. Please see the

section entitled Description of the Series C Preferred Stock Ranking.

Voting Rights

Holders of Series C Preferred Stock will generally have no voting rights. However, if we do not pay dividends on the Series C Preferred Stock for six or more quarterly dividend periods (whether or not consecutive), the holders of the Series C Preferred Stock (voting separately as a class with all other classes or series of our preferred stock we may issue upon which like voting rights have been conferred and are exercisable (including holders of our Series A Preferred Stock, if applicable) and which are entitled to vote as a class with the Series C Preferred Stock in the election referred to below) will be entitled to vote for the election of two additional directors to serve on our board of directors until we pay, or declare and set aside funds for the payment of, all dividends that we owe on the Series C Preferred Stock, subject to certain limitations described in the section entitled Description of the Series C Preferred Stock Voting Rights. In addition, the affirmative vote of the holders of at least two-thirds of the outstanding shares of Series C Preferred Stock is required for us to authorize or issue any class or series of stock ranking prior to the Series C Preferred Stock with respect to the payment of dividends or the distribution of assets on liquidation, dissolution or winding up, to amend any provision of our charter so as to materially and adversely affect any rights of the Series C Preferred Stock or to take certain other actions. Please see the section entitled Description of the Series C Preferred Stock Voting Rights.

Information Rights

During any period in which we are not subject to Section 13 or 15(d) of the Exchange Act and any shares of Series C Preferred Stock are outstanding, we will use our best efforts to (i) transmit by mail (or other permissible means under the Exchange Act) to all holders of Series C Preferred Stock, as their names and addresses appear on our record books and without cost to such holders, copies of the annual reports on Form 10-K and quarterly reports on Form 10-Q that we would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if we were subject thereto (other than any exhibits that would have been required) and (ii) promptly, upon request, supply copies of such reports to any holders or prospective holder of Series C Preferred Stock, subject to certain exceptions described in this prospectus supplement. We will use our best effort to mail (or otherwise provide) the information to the holders of the Series C Preferred Stock within 15 days after the respective dates by which a periodic report on Form 10-K or Form 10-Q, as the case may be, in respect of such information would have been required to be filed with the SEC, if we were subject to Section 13 or 15(d) of the Exchange Act, in each case, based on the dates on which we would be required to file such periodic reports if we were a non-accelerated filer within the meaning of the

Exchange Act.

Listing

No current market exists for the Series C Preferred Stock. We intend to file an application to list the Series C Preferred Stock on the NYSE. If approved for listing, we expect that trading on the NYSE will commence within 30 days after the date of initial issuance of the Series C Preferred Stock. The underwriters have advised us that they intend to make a market in the Series C Preferred Stock prior to the commencement of any trading on the NSYE, but they are not obligated to do so and may discontinue market making at any time without notice. We cannot assure you that a market for the Series C Preferred Stock will develop prior to commencement of trading on the NYSE or, if developed, will be maintained or will provide you with adequate liquidity.

Use of Proceeds

We intend to use the net proceeds of this offering to purchase mortgage-backed securities. We then intend to increase our investment assets by borrowing against these mortgage-backed securities and using the proceeds of such borrowings to acquire additional mortgage-backed securities. We also may use net proceeds from this offering for general corporate purposes, which may include the retirement of our long-term indebtedness, additional investments and repayment of short term indebtedness. See Use of Proceeds.

Restrictions on Ownership and Transfer

Our charter contains restrictions on the number of shares of our capital stock that a person may own that are intended to assist us in maintaining the qualification as a REIT. Among other things, our charter provides that, subject to exceptions, no person may beneficially or constructively own shares of any class of our capital stock in excess of 9.8% in value or number, whichever is more restrictive, of our outstanding shares of such class of capital stock, excluding shares not treated as outstanding for U.S. federal income tax purposes. In addition, our charter, subject to exceptions, prohibits any person from beneficially owning our shares of capital stock to the extent that such ownership of shares would result in failing to qualify as a REIT. For more information about these restrictions, see Description of the Series C Preferred Stock Restrictions on Ownership and Transfer in this prospectus supplement and Restrictions on Ownership and Transfer in the accompanying prospectus.

Concurrent Offering

Concurrently with this offering, pursuant to a separate prospectus supplement, we are offering \$750.0 million aggregate principal amount of 5.00% Convertible Senior Notes due 2015 (or \$862.5 million aggregate principal amount of 5.00% Convertible Senior Notes due 2015 if the underwriters fully exercise their over-allotment option with respect to that offering), which we refer to in this prospectus supplement as the Concurrent Offering. Neither the completion of this offering nor the completion of the Concurrent Offering is contingent on the completion of the other. We intend to use the net proceeds from the

Concurrent Offering in the same manner as the use of proceeds used in this offering, as described above under Use of Proceeds.

Federal Income Tax Considerations

For a discussion of the Federal income tax consequences of purchasing, owning and disposing of the Series C Preferred Stock and any common stock received upon conversion of the Series C Preferred Stock, please see the section entitled Additional Material U.S. Federal Income Tax Considerations.

Book-Entry and Form

The Series C Preferred Stock will be represented by one or more global certificates in definitive, fully registered form deposited with a custodian for, and registered in the name of, a nominee of The Depository Trust Company.

Risk factors

Investing in our Series C Preferred Stock involves significant risks. See Risk Factors in this prospectus supplement, in the accompanying prospectus and in our Annual Report on Form 10-K for the fiscal year ended December 31, 2011, which is incorporated by reference herein, for a discussion of risks you should carefully consider before deciding to invest in our common stock.

## RISK FACTORS

*Investing in the Series C Preferred Stock involves risks. You should carefully review the following risk factors and the risks discussed under the caption Risk Factors in our Annual Report on Form 10-K for the fiscal year ended December 31, 2011, which are incorporated by reference in this prospectus supplement, or any similar caption in the documents that we subsequently file with the SEC that are deemed to be incorporated by reference in this prospectus supplement. You should also carefully review the other risks and uncertainties discussed in this prospectus supplement and the accompanying prospectus and the documents incorporated and deemed to be incorporated by reference in this prospectus supplement. The risks and uncertainties discussed below and in the documents referred to above, as well as other matters discussed in this prospectus supplement and in those documents, could materially and adversely affect our business, financial condition, liquidity and results of operations and the market price of the Series C Preferred Stock and the common stock into which the Series C Preferred Stock, in certain circumstances, are convertible. Moreover, the risks and uncertainties discussed below and in the foregoing documents are not the only risks and uncertainties that we face, and our business, financial condition, liquidity and results of operations and the market price of the Series C Preferred Stock and our shares of common stock could be materially adversely affected by other matters that are not known to us or that we currently do not consider to be material risks to our business.*

### **Risks Related to the Series C Preferred Stock and this Offering**

***The Series C Preferred Stock ranks junior to all of our indebtedness and other liabilities and is effectively junior to all indebtedness and other liabilities of our subsidiaries.***

In the event of our bankruptcy, liquidation, dissolution or winding-up of our affairs, our assets will be available to pay obligations on the Series C Preferred Stock only after all of our indebtedness and other liabilities have been paid. The rights of holders of the Series C Preferred Stock to participate in the distribution of our assets will rank junior to the prior claims of our current and future creditors and any future series or class of preferred stock we may issue that ranks senior to the Series C Preferred Stock. In addition, the Series C Preferred Stock effectively ranks junior to all existing and future indebtedness and other liabilities of (as well as any preferred equity interests held by others in) our existing subsidiaries and any future subsidiaries. Our existing subsidiaries are, and any future subsidiaries would be, separate legal entities and have no legal obligation to pay any amounts to us in respect of dividends due on the Series C Preferred Stock. If we are forced to liquidate our assets to pay our creditors, we may not have sufficient assets to pay amounts due on any or all of the Series C Preferred Stock then outstanding. Thus, the Series C Preferred Stock will be effectively subordinated to all of our indebtedness, which includes our repurchase agreements, interest rate swaps, and other financing arrangements, as well as our existing 4.00% Convertible Senior Notes due 2015 and the Convertible Notes we sell in the Concurrent Offering. Consequently, in the event of a bankruptcy, liquidation, dissolution, reorganization or similar proceeding with respect to us, the holders of any indebtedness will be entitled to payment prior to our obligations on the Series C Preferred Stock. As of March 31, 2012, we had outstanding \$91.7 billion of repurchase agreements, with weighted average remaining maturities of 127 days, with investment securities and U.S. Treasury Securities with an estimated fair value of \$98.7 billion pledged as collateral on our outstanding repurchase agreements and interest rate swaps. As of March 31, 2012, we also had \$600.0 million of principal outstanding on our Existing Convertible Notes. As of March 31, 2012, our total consolidated indebtedness related to interest-bearing liabilities was approximately \$95.7 billion.

Future offerings of debt or senior equity securities may adversely affect the market price of the Series C Preferred Stock. If we decide to issue debt (including the Convertible Notes being offered by us in the Concurrent Offering) or senior equity securities in the future, it is possible that these securities will be governed by an indenture or other instrument containing covenants restricting our operating flexibility. Additionally, any convertible or exchangeable securities that we issue in the future may have rights, preferences and privileges more favorable than those of the Series C Preferred Stock and may result in dilution to owners of the Series C Preferred Stock. We and, indirectly, our stockholders, will bear the cost of issuing and servicing such securities. Because our decision to issue debt or equity securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing or nature of our future offerings. Thus holders of the Series C Preferred Stock will bear the risk of our future offerings reducing the market price of the Series C Preferred Stock and diluting the value of their holdings in us.

***The Series C Preferred Stock has not been rated.***

We have not sought to obtain a rating for the Series C Preferred Stock, and the Series C Preferred Stock may never be rated. It is possible, however, that one or more rating agencies might independently determine to assign a rating to the Series C Preferred Stock or that we may elect to obtain a rating of our Series C Preferred Stock in the future. Furthermore, we may elect to issue other securities for which we may seek to obtain a rating. If any ratings are assigned to the Series C Preferred Stock in the future or if we issue other securities with a rating, such ratings, if they are lower than market expectations or are subsequently lowered or withdrawn, could adversely affect the market for or the market value of the Series C Preferred Stock.

Ratings only reflect the views of the issuing rating agency or agencies and such ratings could at any time be revised downward or withdrawn entirely at the discretion of the issuing rating agency. Further, a rating is not a recommendation to purchase, sell or hold any particular security, including the Series C Preferred Stock. In addition, ratings do not reflect market prices or suitability of a security for a particular investor and any future rating of the Series C Preferred Stock may not reflect all risks related to us and our business, or the structure or market value of the Series C Preferred Stock.

***We may issue additional shares of Series C Preferred Stock and additional series of preferred stock that rank on parity with the Series C Preferred Stock as to dividend rights, rights upon liquidation or voting rights.***

We are allowed to issue additional shares of Series C Preferred Stock and additional series of preferred stock that would rank equally to the Series C Preferred Stock as to dividend payments and rights upon our liquidation, dissolution or winding up of our affairs pursuant to our articles of amendment and restatement of articles of incorporation (or, our charter) and the articles supplementary for the Series C Preferred Stock (or, the articles supplementary) without any vote of the holders of the Series C Preferred Stock. The issuance of additional shares of Series C Preferred Stock and additional series of parity preferred stock could have the effect of reducing the amounts available to the Series C Preferred Stock issued in this offering upon our liquidation or dissolution or the winding up of our affairs. It also may reduce dividend payments on the Series C Preferred Stock issued in this offering if we do not have sufficient funds to pay dividends on all Series C Preferred Stock outstanding and other classes of stock with equal priority with respect to dividends.

In addition, although holders of Series C Preferred Stock are entitled to limited voting rights, as described in *Description of the Series C Preferred Stock Voting Rights*, with respect to such matters, the Series C Preferred Stock will vote separately as a class along with all other series of our preferred stock that we may issue upon which like voting rights (including our Series A Preferred Stock, if applicable) have been conferred and are exercisable. As a result, the voting rights of holders of Series C Preferred Stock may be significantly diluted, and the holders of such other series of preferred stock that we may issue may be able to control or significantly influence the outcome of any vote. Future issuances and sales of parity preferred stock, or the perception that such issuances and sales could occur, may cause prevailing market prices for the Series C Preferred Stock and our common stock to decline and may adversely affect our ability to raise additional capital in the financial markets at times and prices favorable to us.

***You may not be able to exercise conversion rights upon a Change of Control and, if exercisable, the change of control conversion rights described in this prospectus supplement may not adequately compensate you.***

Upon the occurrence of a Change of Control, each holder of the Series C Preferred Stock will have the right (unless, prior to the Change of Control Conversion Date, we have provided notice of our election to redeem some or all of the shares of Series C Preferred Stock held by such holder as described under *Description of the Series C Preferred Stock Redemption Optional Redemption* or *Special Optional Redemption*, in which case such holder will have the right only with respect to shares of Series C Preferred Stock that are not called for redemption) to convert some or all of such holder's Series C Preferred Stock into our shares of common stock (or under specified circumstances, the Alternative Conversion Consideration, as defined herein). Notwithstanding that we generally may not redeem the Series C Preferred Stock prior to May 16, 2017, we have a special optional redemption right to redeem the Series C Preferred Stock in the event of a Change of Control, and holders of the Series C Preferred Stock will not have the right to convert any shares that we have elected to redeem prior to the Change of Control

Conversion Date. Please see the sections entitled Description of the Series C Preferred Stock Redemption Special Optional Redemption and Description of the Series C Preferred Stock Conversion Rights.

If we do not elect to redeem the Series C Preferred Stock prior to the Change of Control Conversion Date, then upon an exercise of the conversion rights provided for in this prospectus supplement, the holders of Series C Preferred Stock will be limited to a maximum number of shares of our common stock (or, if applicable, the Alternative Conversion Consideration (as defined herein)) equal to 3.0266, referred to as the Share Cap, multiplied by the number of shares of Series C Preferred Stock converted. If the Common Stock Price is less than \$8.26 (which is 50% of the per share closing sale price of our common stock reported on the NYSE on May 9, 2012), subject to adjustment in certain circumstances, the holders of the Series C Preferred Stock will receive a maximum of 3.0266 shares of our common stock per share of Series C Preferred Stock, which may result in a holder receiving shares of common stock (or Alternative Conversion Consideration, as applicable) with a value that is less than the liquidation preference of the Series C Preferred Stock plus any accumulated and unpaid dividends.

***The Change of Control conversion rights may also make it more difficult for a party to acquire us or discourage a party from acquiring us.***

The Change of Control conversion feature of the Series C Preferred Stock may have the effect of discouraging a third party from making an acquisition proposal for us or of delaying, deferring or preventing certain of our change of control transactions under circumstances that otherwise could provide the holders of our common stock and Series C Preferred Stock with the opportunity to realize a premium over the then-current market price of such stock or that stockholders may otherwise believe is in their best interests.

***As a holder of Series C Preferred Stock, you will have extremely limited voting rights.***

Your voting rights as a holder of Series C Preferred Stock will be limited. Our shares of common stock are the only class of our securities that carry full voting rights. Voting rights for holders of Series C Preferred Stock exist primarily with respect to the ability to elect, voting together with the holders of any other series of our preferred stock having similar voting rights (including holders of our Series A Preferred Stock, if applicable), two additional directors to our board of directors, subject to limitations described in the section entitled Description of the Series C Preferred Stock Voting Rights, in the event that six quarterly dividends (whether or not consecutive) payable on the Series C Preferred Stock are in arrears, and with respect to voting on amendments to our charter or articles supplementary relating to the Series C Preferred Stock that materially and adversely affect the rights of the holders of Series C Preferred Stock or authorize, increase or create additional classes or series of our shares that are senior to the Series C Preferred Stock. Other than the limited circumstances described in this prospectus supplement, holders of Series C Preferred Stock will not have any voting rights. Please see the section entitled Description of the Series C Preferred Stock Voting Rights.

***The Series C Preferred Stock is a new issue of securities and does not have an established trading market, which may negatively affect its value and your ability to transfer and sell your shares.***

The Series C Preferred Stock is a new issue of securities and currently no market exists for the Series C Preferred Stock. We intend to file an application to list the Series C Preferred Stock on the NYSE. However, we cannot assure you that the Series C Preferred Stock will be approved for listing on the NYSE. Even if so approved, trading of the Series C Preferred Stock on the NYSE is not expected to begin until some time during the period ending 30 days after the date of initial issuance of the Series C Preferred Stock and, in any event, a trading market on the NYSE for the Series C Preferred Stock may never develop or, even if one develops, may not be maintained and may not provide you with adequate liquidity. Certain of the underwriters have advised us that they intend to make a market in the Series C Preferred Stock prior to the commencement of any trading on the NYSE, but are not obligated to do so and may discontinue market making at any time without notice. The liquidity of any market for the Series C Preferred Stock that may develop will depend on a number of factors, including prevailing interest rates, the dividend rate on our common stock, our financial condition and operating results, the number of holders of the Series C Preferred Stock, the market for similar securities and the interest of securities dealers in making a market in the Series C Preferred Stock. As a result, the ability to transfer or sell the Series C Preferred Stock and the amount you receive upon any sale or transfer of the Series C Preferred Stock could be adversely affected.

***The trading price of the Series C Preferred Stock may be volatile.***

If the Series C Preferred Stock is approved for listing, the trading price of the Series C Preferred Stock may depend on many factors, including, without limitation:

- § prevailing interest rates;
- § the market price of our common stock and our Series A preferred stock;
- § the market for similar securities;
- § additional issuances by us of common shares;
- § additional issuances by us of other series or classes of preferred shares;
- § government action or regulation;
- § general economic conditions; and
- § our financial condition, performance and prospects.

Each of these factors, among other, may cause the trading price of the Series C Preferred Stock to fall below the offering price, which could have a material adverse effect on your investment in the Series C Preferred Stock.

***If our common stock is delisted, your ability to transfer or sell your shares of the Series C Preferred Stock may be limited and the market value of the Series C Preferred Stock will likely be materially adversely affected.***

Other than in connection with a Change of Control, the Series C Preferred Stock does not contain provisions that are intended to protect you if our common stock is delisted from the NYSE. Since the Series C Preferred Stock has no stated maturity date, you may be forced to hold your shares of the Series C Preferred Stock and receive stated dividends on the Series C Preferred Stock when, as and if authorized by our board of directors and paid by us with no assurance as to ever receiving the liquidation value thereof. In addition, if our common stock is delisted from the NYSE, it is likely that the Series C Preferred Stock will be delisted from the NYSE as well. Accordingly, if our common stock is delisted from the NYSE, your ability to transfer or sell your shares of the Series C Preferred Stock may be limited and the market value of the Series C Preferred Stock will likely be materially adversely affected.

***Our charter and the articles supplementary thereto establishing the terms of the Series C Preferred Stock contain restrictions upon ownership and transfer of the Series C Preferred Stock, which may impair the ability of holders to convert Series C Preferred Stock into our common stock upon a Change of Control.***

Our charter and the articles supplementary establishing the terms of the Series C Preferred Stock contain restrictions on ownership and transfer of the Series C Preferred Stock intended to assist us in maintaining our qualification as a REIT for federal income tax purposes. For example, to assist us in qualifying as a REIT, our charter prohibits anyone from acquiring or holding, directly or constructively, ownership of a number of shares of any class of our capital stock in excess of 9.8% of the outstanding shares of such class. For this purpose the term ownership generally means either direct ownership or constructive ownership in accordance with the constructive ownership provisions of Section 544 of the Code, as modified in Section 856(h) of the Code. See Description of the Series C Preferred Stock Restrictions on Ownership and Transfer in this prospectus supplement. You should consider these ownership limitations prior to your purchase of the Series C Preferred Stock. In addition, the articles supplementary provide that, notwithstanding any other provision of the Series C Preferred Stock, no holder of Series C Preferred Stock will be entitled to convert such stock into our common stock to the extent that receipt of our common stock would cause the holder to exceed the ownership limitations contained in our charter, which may limit your ability to convert the Series C Preferred Stock into our common stock upon a Change of Control. The

restrictions could also have anti-takeover effects and could reduce the possibility that a third party will attempt to acquire control of us, which could adversely affect the market price of the Series C Preferred Stock.

***Our ability to pay dividends is limited by the requirements of Maryland law.***

Our ability to pay dividends on our Series C Preferred Stock is limited by the laws of Maryland. Under applicable Maryland law, a Maryland corporation may not make a distribution if, after giving effect to the distribution, the corporation would not be able to pay its debts as the debts become due in the usual course of business, or the corporation's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the corporation were dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of stockholders whose preferential rights are superior to those receiving the distribution. Accordingly, we may not make a distribution on our Series C Preferred Stock if, after giving effect to the distribution, we would not be able to pay our debts as they become due in the usual course of business or our total assets would be less than the sum of our total liabilities plus the amount that would be needed to satisfy the preferential rights upon dissolution of the holders of shares of any series of preferred stock then outstanding, if any, with preferences senior to those of our Series C Preferred Stock.

**USE OF PROCEEDS**

We expect that the aggregate net proceeds to us from this offering of our Series C Preferred Stock (after deducting estimated offering expenses) will be approximately \$266.1 million (or approximately \$306.0 million if the underwriters' overallotment option is exercised in full).

We intend to use the net proceeds from this offering and the Concurrent Offering of Convertible Notes as follows:

to purchase mortgage-backed securities. We then intend to increase our investment assets by borrowing against these mortgage-backed securities and using the proceeds of such borrowings to acquire additional mortgage-backed securities; and

for general corporate purposes, which may include the retirement of our long-term indebtedness, additional investments and repayment of short term indebtedness.

**RATIOS OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED DIVIDENDS**

	<b>Quarter Ended</b>	<b>Years Ended December 31,</b>				
	<b>March 31, 2012</b>	<b>2011</b>	<b>2010</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>
Ratio of earnings to combined fixed charges and preferred stock dividends <sup>(1)</sup>	3.56x	1.28x	2.08x	2.50x	1.18x	1.21x

- 
- (1) The ratios of earnings to combined fixed charges and preferred stock dividends were computed by dividing the sum of fixed charges and preferred stock dividends by earnings. For these purposes, earnings consist of net income from continuing operations and fixed charges. Fixed charges consist of our interest expense and estimated interest within rental expense. Preferred dividends consist of pre-tax amounts required to pay dividends in respect of our 6.00% Series B Cumulative Convertible Preferred Stock and our 7.875% Series A Cumulative Redeemable Preferred Stock.

## DESCRIPTION OF THE SERIES C PREFERRED STOCK

*This description of certain terms of the Series C Preferred Stock supplements, and, to the extent inconsistent therewith, replaces, the description of the general terms and provisions of our preferred stock set forth in the accompanying prospectus, to which description reference is hereby made. The description of certain terms of the Series C Preferred Stock in this prospectus supplement does not purport to be complete and is in all respects subject to, and qualified in its entirety by references to the relevant provisions of our charter, the articles supplementary for Series C Preferred Stock, our bylaws and Maryland law. Copies of our charter, the articles supplementary and our bylaws are available from us upon request. As used under this caption Description of the Series C Preferred Stock, references to us, our and we mean Annaly Capital Management, Inc. excluding its subsidiaries, unless otherwise expressly stated or the context otherwise requires.*

### General

Our charter provides that the total number of shares of stock of all classes which we have the authority to issue is two billion (2,000,000,000) shares of capital stock, par value one cent (\$0.01) per share. Of these shares of capital stock, 1,987,987,500 shares are classified as shares of our common stock, 7,412,500 shares are classified as shares of our 7.875% Series A Cumulative Redeemable Preferred Stock, and 4,600,000 shares are classified as shares of our 6.00% Series B Cumulative Convertible Preferred Stock. On April 3, 2012, we completed the conversion of all of our outstanding shares of 6% Series B Cumulative Convertible Preferred Stock into shares of our common stock in accordance with the terms of our Series B Preferred Stock. Our Board may classify and reclassify any unissued shares of capital stock by setting or changing in any one or more respects the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends, qualifications or terms or conditions of redemption of such shares of stock

We intend to apply to list the shares of the Series C Preferred Stock on the NYSE under the symbol NLYPrC. If the application is approved, we expect trading to commence within 30 days after the initial delivery of the shares of Series C Preferred Stock.

The registrar, transfer agent and dividend and redemption price disbursing agent in respect of the Series C Preferred Stock will be Computershare Shareowner Services LLC. The principal business address for Computershare is 480 Washington Blvd, 29<sup>th</sup> Floor, Jersey City, NJ 07310. The articles supplementary will provide that we will maintain an office or agency where shares of Series C Preferred Stock may be surrendered for payment (including redemption), registration of transfer or exchange.

### Maturity

The Series C Preferred Stock has no stated maturity and will not be subject to any sinking fund or mandatory redemption. Shares of the Series C Preferred Stock will remain outstanding indefinitely unless we decide to redeem or otherwise repurchase them or they become convertible and are converted as described below under Conversion Rights. We are not required to set aside funds to redeem the Series C Preferred Stock.

### Ranking

The Series C Preferred Stock will rank, with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up:

- (1) senior to all classes or series of our common stock and to all other equity securities issued by us other than equity securities referred to in clauses (2) and (3) below;
- (2) on a parity with our Series A Preferred Stock and all equity securities issued by us with terms specifically providing that those equity securities rank on a parity with the Series C Preferred Stock with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up;

(3) junior to all equity securities issued by us with terms specifically providing that those equity securities rank senior to the Series C Preferred Stock with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up (please see the section entitled "Voting Rights" below); and

(4) effectively junior to all of our existing and future indebtedness (including indebtedness convertible to our common stock or preferred stock), including under our repurchase agreements, our existing 4.00% Convertible Senior Notes due 2015 and the Convertible Notes being offered in the Concurrent Offering, and to the indebtedness of our existing subsidiaries and any future subsidiaries.

As of March 31, 2012, our total consolidated indebtedness related to interest-bearing liabilities was approximately \$95.7 billion, all of which ranks effectively senior to the Series C Preferred Stock, and we had outstanding 7,412,500 shares of our Series A Preferred Stock, ranking on parity with the Series C Preferred Stock.

## Dividends

Holders of shares of the Series C Preferred Stock are entitled to receive, when, as and if declared by our board of directors, out of funds legally available for the payment of dividends, cumulative cash dividends at the rate of 7.625% of the \$25.00 per share liquidation preference per annum (equivalent to \$1.90625 per annum per share). Dividends on the Series C Preferred Stock shall accrue daily and be cumulative from, and including, the date of original issue and shall be payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year (each, a "dividend payment date"); provided that if any dividend payment date is not a business day, as defined in the articles supplementary, then the dividend which would otherwise have been payable on that dividend payment date may be paid on the next succeeding business day and no interest, additional dividends or other sums will accrue on the amount so payable for the period from and after that dividend payment date to that next succeeding business day. The first dividend on the Series C Preferred Stock is scheduled to be paid on June 30, 2012 in the amount of \$0.238281 per share, and that dividend will be paid to the persons who are the holders of record of the Series C Preferred Stock at the close of business on the corresponding record date, which will be June 1, 2012. Any dividend payable on the Series C Preferred Stock, including dividends payable for any partial dividend period, will be computed on the basis of a 360-day year consisting of twelve 30-day months. Dividends will be payable to holders of record as they appear in our stock records for the Series C Preferred Stock at the close of business on the applicable record date, which shall be the first day of the calendar month, whether or not a business day, in which the applicable dividend payment date falls (each, a "dividend record date").

No dividends on shares of Series C Preferred Stock shall be authorized by our board of directors or paid or set apart for payment by us at any time when the terms and provisions of any agreement of ours, including any agreement relating to our indebtedness, prohibit the authorization, payment or setting apart for payment thereof or provide that the authorization, payment or setting apart for payment thereof would constitute a breach of the agreement or a default under the agreement, or if the authorization, payment or setting apart for payment shall be restricted or prohibited by law. You should review the information appearing above under "Risk Factors." Our ability to pay dividends is limited by the requirements of Maryland law for information as to, among other things, other circumstances under which we may be unable to pay dividends on the Series C Preferred Stock.

Notwithstanding the foregoing, dividends on the Series C Preferred Stock will accrue whether or not we have earnings, whether or not there are funds legally available for the payment of those dividends and whether or not those dividends are declared. No interest, or sum in lieu of interest, will be payable in respect of any dividend payment or payments on the Series C Preferred Stock which may be in arrears, and holders of the Series C Preferred Stock will not be entitled to any dividends in excess of full cumulative dividends described above. Any dividend payment made on the Series C Preferred Stock shall first be credited against the earliest accumulated but unpaid dividend due with respect to those shares.

Future distributions on our common stock and preferred stock, including the Series C Preferred Stock offered pursuant to this prospectus supplement, will be at the discretion of our board of directors and will depend on, among other things, our results of operations, cash flow from operations, financial condition and capital requirements, the annual distribution requirements under the REIT provisions of the Code, any debt service requirements and any

other factors our board of directors deems relevant. Accordingly, we cannot guarantee that we will be able to make cash distributions on our preferred stock or what the actual distributions will be for any future period.

Unless full cumulative dividends on the Series C Preferred Stock have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof is set apart for payment for all past dividend periods, no dividends (other than in shares of common stock or in shares of any series of preferred stock that we may issue ranking junior to the Series C Preferred Stock as to dividends and upon liquidation) shall be declared or paid or set aside for payment upon shares of our common stock or preferred stock that we may issue ranking junior to or on a parity with the Series C Preferred Stock (including our Series A Preferred Stock) as to dividends or upon liquidation. Nor shall any other distribution be declared or made upon shares of our common stock or preferred stock that we may issue ranking junior to or on a parity with the Series C Preferred Stock (including our Series A Preferred Stock) as to dividends or upon liquidation. In addition, any shares of our common stock or preferred stock that we may issue ranking junior to or on a parity with the Series C Preferred Stock (including our Series A Preferred Stock) as to dividends or upon liquidation shall not be redeemed, purchased or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any such shares) by us (except by conversion into or exchange for our other capital stock that we may issue ranking junior to the Series C Preferred Stock as to dividends and upon liquidation and except for transfers made pursuant to the provisions of our charter relating to restrictions on ownership and transfers of our capital stock).

When dividends are not paid in full (or a sum sufficient for such full payment is not so set apart) upon the Series C Preferred Stock, our Series A Preferred Stock and the shares of any other series of preferred stock that we may issue ranking on a parity as to dividends with the Series C Preferred Stock, all dividends declared upon the Series C Preferred Stock and any other series of preferred stock ranking on a parity that we may issue as to dividends with the Series C Preferred Stock shall be declared pro rata so that the amount of dividends declared per share of Series C Preferred Stock and such other series of preferred stock that we may issue shall in all cases bear to each other the same ratio that accrued dividends per share on the Series C Preferred Stock and such other series of preferred stock that we may issue (which shall not include any accrual in respect of unpaid dividends for prior dividend periods if such preferred stock does not have a cumulative dividend) bear to each other. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on the Series C Preferred Stock which may be in arrears.

#### **Liquidation Preference**

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of shares of Series C Preferred Stock will be entitled to be paid out of the assets we have legally available for distribution to our stockholders, subject to the preferential rights of the holders of any class or series of our stock we may issue ranking senior to the Series C Preferred Stock with respect to the distribution of assets upon liquidation, dissolution or winding up, a liquidation preference of \$25.00 per share, plus an amount equal to any accumulated and unpaid dividends to, but not including, the date of payment, before any distribution of assets is made to holders of our common stock or any other class or series of our stock we may issue that ranks junior to the Series C Preferred Stock as to liquidation rights.

In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up, our available assets are insufficient to pay the amount of the liquidating distributions on all outstanding shares of Series C Preferred Stock, our Series A Preferred Stock and the corresponding amounts payable on all shares of other classes or series of our capital stock that we may issue ranking on a parity with the Series C Preferred Stock in the distribution of assets, then the holders of the Series C Preferred Stock, our Series A Preferred Stock and all other such classes or series of capital stock shall share ratably in any such distribution of assets in proportion to the full liquidating distributions to which they would otherwise be respectively entitled.

Holders of Series C Preferred Stock will be entitled to written notice of any such liquidation no fewer than 30 days and no more than 60 days prior to the payment date. After payment of the full amount of the liquidating distributions to which they are entitled, the holders of Series C Preferred Stock will have no right or claim to any of our remaining assets. The consolidation or merger of us with or into any other corporation, trust or entity or of any other entity with or into us, or the sale, lease, transfer or conveyance of all or substantially all of our property or

## Edgar Filing: ANNALY CAPITAL MANAGEMENT INC - Form 424B5

business, shall not be deemed to constitute a liquidation, dissolution or winding up of us (although such events may give rise to the special optional redemption and contingent conversion rights described below).

### Redemption

The Series C Preferred Stock is not redeemable by us prior to May 16, 2017, except as described below under *Special Optional Redemption* and except that, as provided in the articles supplementary, we may purchase or redeem shares of the Series C Preferred Stock prior to that date in order to preserve our qualification as a REIT. Please see the section entitled *Restrictions on Ownership and Transfer* in the accompanying prospectus.

*Optional Redemption.* On and after May 16, 2017, we may, at our option, upon not less than 30 nor more than 60 days' written notice, redeem the Series C Preferred Stock, in whole or in part, at any time or from time to time, for cash at a redemption price of \$25.00 per share, plus any accumulated and unpaid dividends thereon to, but not including, the date fixed for redemption. If we elect to redeem any shares of Series C Preferred Stock as described in this paragraph, we may use any available cash to pay the redemption price, and we will not be required to pay the redemption price only out of the proceeds from the issuance of other equity securities or any other specific source.

*Special Optional Redemption.* Upon the occurrence of a Change of Control, we may, at our option, upon not less than 30 nor more than 60 days' written notice, redeem the Series C Preferred Stock, in whole or in part, within 120 days after the first date on which such Change of Control occurred, for cash at a redemption price of \$25.00 per share, plus any accumulated and unpaid dividends thereon to, but not including, the date fixed for redemption. If, prior to the Change of Control Conversion Date, we have provided notice of our election to redeem some or all of the shares of Series C Preferred Stock (whether pursuant to our optional redemption right described above under *Optional Redemption* or this special optional redemption right), the holders of Series C Preferred Stock will not have the Change of Control Conversion Right (as defined below) described below under *Conversion Rights* with respect to the shares called for redemption. If we elect to redeem any shares of the Series C Preferred Stock as described in this paragraph, we may use any available cash to pay the redemption price, and we will not be required to pay the redemption price only out of the proceeds from the issuance of other equity securities or any other specific source.

A Change of Control is deemed to occur when, after the original issuance of the Series C Preferred Stock, the following have occurred and are continuing:

the acquisition by any person, including any syndicate or group deemed to be a person under Section 13(d)(3) of the Securities Exchange Act of 1934, as amended (or Exchange Act), of beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of purchases, mergers or other acquisition transactions of our stock entitling that person to exercise more than 50% of the total voting power of all our stock entitled to vote generally in the election of our directors (except that such person will be deemed to have beneficial ownership of all securities that such person has the right to acquire, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition); and

following the closing of any transaction referred to in the bullet point above, neither we nor the acquiring or surviving entity has a class of common securities (or American Depositary Receipts representing such securities) listed on the NYSE, the NYSE Amex or Nasdaq, or listed or quoted on an exchange or quotation system that is a successor to the NYSE, the NYSE Amex or Nasdaq.

*Redemption Procedures.* In the event we elect to redeem Series C Preferred Stock, the notice of redemption will be mailed to each holder of record of Series C Preferred Stock called for redemption at such holder's address as it appears on our stock transfer records and will state the following:

the redemption date;

the number of shares of Series C Preferred Stock to be redeemed;

S-18

---

the redemption price;

the place or places where certificates (if any) for the Series C Preferred Stock are to be surrendered for payment of the redemption price;

that dividends on the shares to be redeemed will cease to accumulate on the redemption date;

whether such redemption is being made pursuant to the provisions described above under Optional Redemption or Special Optional Redemption ;

if applicable, that such redemption is being made in connection with a Change of Control and, in that case, a brief description of the transaction or transactions constituting such Change of Control; and

if such redemption is being made in connection with a Change of Control, that the holders of the shares of Series C Preferred Stock being so called for redemption will not be able to tender such shares of Series C Preferred Stock for conversion in connection with the Change of Control and that each share of Series C Preferred Stock tendered for conversion that is called, prior to the Change of Control Conversion Date (as defined below), for redemption will be redeemed on the related date of redemption instead of converted on the Change of Control Conversion Date.

If less than all of the Series C Preferred Stock held by any holder are to be redeemed, the notice mailed to such holder shall also specify the number of shares of Series C Preferred Stock held by such holder to be redeemed. No failure to give such notice or any defect thereto or in the mailing thereof shall affect the validity of the proceedings for the redemption of any shares of Series C Preferred Stock except as to the holder to whom notice was defective or not given.

Holders of Series C Preferred Stock to be redeemed shall surrender the Series C Preferred Stock at the place designated in the notice of redemption and shall be entitled to the redemption price and any accumulated and unpaid dividends payable upon the redemption following the surrender. If notice of redemption of any shares of Series C Preferred Stock has been given and if we have irrevocably set aside the funds necessary for redemption in trust for the benefit of the holders of the shares of Series C Preferred Stock so called for redemption, then from and after the redemption date (unless default shall be made by us in providing for the payment of the redemption price plus accumulated and unpaid dividends, if any), dividends will cease to accrue on those shares of Series C Preferred Stock, those shares of Series C Preferred Stock shall no longer be deemed outstanding and all rights of the holders of those shares will terminate, except the right to receive the redemption price plus accumulated and unpaid dividends, if any, payable upon redemption. If any redemption date is not a business day, then the redemption price and accumulated and unpaid dividends, if any, payable upon redemption may be paid on the next business day and no interest, additional dividends or other sums will accrue on the amount payable for the period from and after that redemption date to that next business day. If less than all of the outstanding Series C Preferred Stock is to be redeemed, the Series C Preferred Stock to be redeemed shall be selected pro rata (as nearly as may be practicable without creating fractional shares).

Immediately prior to any redemption of Series C Preferred Stock, we shall pay, in cash, any accumulated and unpaid dividends through and including the redemption date, unless a redemption date falls after a dividend record date and prior to the corresponding dividend payment date, in which case each holder of Series C Preferred Stock at the close of business on such dividend record date shall be entitled to the dividend payable on such shares on the corresponding dividend payment date notwithstanding the redemption of such shares before such dividend payment date. Except as provided above, we will make no payment or allowance for unpaid dividends, whether or not in arrears, on shares of the Series C Preferred Stock to be redeemed.

Unless full cumulative dividends on all shares of Series C Preferred Stock shall have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been or contemporaneously is set apart for payment for all past dividend periods, no shares of Series C Preferred Stock shall be redeemed unless all outstanding shares of Series C Preferred Stock are simultaneously redeemed and we shall not

purchase or otherwise acquire directly or indirectly any shares of Series C Preferred Stock (except by exchanging it for our capital stock ranking junior to the Series C Preferred Stock as to dividends and upon liquidation); provided, however, that the foregoing shall not prevent the purchase or acquisition by us of shares of Series C Preferred Stock to preserve our REIT status or pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding shares of Series C Preferred Stock.

Subject to applicable law, we may purchase shares of Series C Preferred Stock in the open market, by tender or by private agreement. Any shares of Series C Preferred Stock that we acquire may be retired and re-classified as authorized but unissued shares of preferred stock, without designation as to class or series, and may thereafter be reissued as any class or series of preferred stock.

### Conversion Rights

Upon the occurrence of a Change of Control, each holder of Series C Preferred Stock will have the right (unless, prior to the Change of Control Conversion Date, we have provided notice of our election to redeem some or all of the shares of Series C Preferred Stock held by such holder as described above under Redemption Optional Redemption or Redemption Special Optional Redemption, in which case such holder will have the right only with respect to shares of Series C Preferred Stock that are not called for redemption) to convert some or all of the Series C Preferred Stock held by such holder (the Change of Control Conversion Right) on the Change of Control Conversion Date into a number of shares of our common stock per share of Series C Preferred Stock (the Common Stock Conversion Consideration) equal to the lesser of:

the quotient obtained by dividing (i) the sum of the \$25.00 liquidation preference per share of Series C Preferred Stock plus the amount of any accumulated and unpaid dividends thereon to, but not including, the Change of Control Conversion Date (unless the Change of Control Conversion Date is after a dividend record date and prior to the corresponding dividend payment date for the Series C Preferred Stock, in which case no additional amount for such accrued and unpaid dividends will be included in this sum) by (ii) the Common Stock Price, as defined below (such quotient, the Conversion Rate); and

3.0266 (the Share Cap), subject to certain adjustments as described below.

Anything in the articles supplementary to the contrary notwithstanding and except as otherwise required by law, the persons who are the holders of record of shares of Series C Preferred Stock at the close of business on a dividend record date will be entitled to receive the dividend payable on the corresponding dividend payment date notwithstanding the conversion of those shares after such dividend record date and on or prior to such dividend payment date and, in such case, the full amount of such dividend shall be paid on such dividend payment date to the persons who were the holders of record at the close of business on such dividend record date. Except as provided above, we will make no allowance for unpaid dividends that are not in arrears on the shares of Series C Preferred Stock to be converted.

The Share Cap is subject to pro rata adjustments for any share splits (including those effected pursuant to a distribution of our common stock to existing holders of our common stock), subdivisions or combinations (in each case, a Share Split) with respect to our common stock as follows: the adjusted Share Cap as the result of a Share Split will be the number of shares of our common stock that is equivalent to the product obtained by multiplying (i) the Share Cap in effect immediately prior to such Share Split by (ii) a fraction, the numerator of which is the number of shares of our common stock outstanding immediately after giving effect to such Share Split and the denominator of which is the number of shares of our common stock outstanding immediately prior to such Share Split.

For the avoidance of doubt, subject to the immediately succeeding sentence, the aggregate number of shares of our common stock (or equivalent Alternative Conversion Consideration (as defined below), as applicable) issuable or deliverable, as applicable, in connection with the exercise of the Change of Control Conversion Right will not exceed 16,646,489 shares of our common stock (or equivalent Alternative Conversion Consideration, as applicable), subject to proportionate increase to the extent the underwriters' over-allotment option to purchase additional shares of Series C Preferred Stock is exercised, not to exceed 19,143,462 shares of our common stock

## Edgar Filing: ANNALY CAPITAL MANAGEMENT INC - Form 424B5

in total (or equivalent Alternative Conversion Consideration, as applicable) (the Exchange Cap ). The Exchange Cap is subject to pro rata adjustments for any Share Splits on the same basis as the corresponding adjustment to the Share Cap.

In the case of a Change of Control pursuant to which our common stock is or will be converted into cash, securities or other property or assets (including any combination thereof) (the Alternative Form Consideration ), a holder of Series C Preferred Stock will receive upon conversion of such Series C Preferred Stock the kind and amount of Alternative Form Consideration which such holder would have owned or been entitled to receive upon the Change of Control had such holder held a number of shares of our common stock equal to the Common Stock Conversion Consideration immediately prior to the effective time of the Change of Control (the Alternative Conversion Consideration ; the Common Stock Conversion Consideration or the Alternative Conversion Consideration, whichever shall be applicable to a Change of Control, is referred to as the Conversion Consideration ).

If the holders of our common stock have the opportunity to elect the form of consideration to be received in the Change of Control, the Conversion Consideration in respect of such Change of Control will be deemed to be the kind and amount of consideration actually received by holders of a majority of the outstanding shares of our common stock that made or voted for such an election (if electing between two types of consideration) or holders of a plurality of the outstanding shares of our common stock that made or voted for such an election (if electing between more than two types of consideration), as the case may be, and will be subject to any limitations to which all holders of our common stock are subject, including, without limitation, pro rata reductions applicable to any portion of the consideration payable in such Change of Control.

We will not issue fractional shares of our common stock upon the conversion of the Series C Preferred Stock in connection with a Change of Control. Instead, we will make a cash payment equal to the value of such fractional shares based upon the Common Stock Price used in determining the Common Stock Conversion Consideration for such Change of Control.

Within 15 days following the occurrence of a Change of Control, provided that we have not then exercised our right to redeem all shares of Series C Preferred Stock pursuant to the redemption provisions described above, we will provide to holders of Series C Preferred Stock a notice of occurrence of the Change of Control that describes the resulting Change of Control Conversion Right. This notice will state the following:

the events constituting the Change of Control;

the date of the Change of Control;

the last date on which the holders of Series C Preferred Stock may exercise their Change of Control Conversion Right;

the method and period for calculating the Common Stock Price;

the Change of Control Conversion Date;

that if, prior to the Change of Control Conversion Date, we have provided notice of our election to redeem all or any shares of Series C Preferred Stock, holders will not be able to convert the shares of Series C Preferred Stock called for redemption and such shares will be redeemed on the related redemption date, even if such shares have already been tendered for conversion pursuant to the Change of Control Conversion Right;

if applicable, the type and amount of Alternative Conversion Consideration entitled to be received per share of Series C Preferred Stock;

the name and address of the paying agent, transfer agent and conversion agent for the Series C Preferred Stock;

S-21

---

the procedures that the holders of Series C Preferred Stock must follow to exercise the Change of Control Conversion Right (including procedures for surrendering shares for conversion through the facilities of a Depositary (as defined below)), including the form of conversion notice to be delivered by such holders as described below; and

the last date on which holders of Series C Preferred Stock may withdraw shares surrendered for conversion and the procedures that such holders must follow to effect such a withdrawal.

Under such circumstances, we will also issue a press release containing such notice for publication on Dow Jones & Company, Inc., Business Wire, PR Newswire or Bloomberg Business News (or, if these organizations are not in existence at the time of issuance of the press release, such other news or press organization as is reasonably calculated to broadly disseminate the relevant information to the public), and post a notice on our website, in any event prior to the opening of business on the first business day following any date on which we provide the notice described above to the holders of Series C Preferred Stock.

To exercise the Change of Control Conversion Right, the holders of Series C Preferred Stock will be required to deliver, on or before the close of business on the Change of Control Conversion Date, the certificates (if any) representing the shares of Series C Preferred Stock to be converted, duly endorsed for transfer (or, in the case of any shares of Series C Preferred Stock held in book-entry form through a Depositary (as defined below), to deliver, on or before the close of business on the Change of Control Conversion Date, the shares of Series C Preferred Stock to be converted through the facilities of such Depositary), together with a written conversion notice in the form provided by us, duly completed, to our transfer agent. The conversion notice must state:

the relevant Change of Control Conversion Date;

the number of shares of Series C Preferred Stock to be converted; and

that the Series C Preferred Stock is to be converted pursuant to the applicable provisions of the Series C Preferred Stock.

The Change of Control Conversion Date is the date the Series C Preferred Stock is to be converted, which will be a business day selected by us that is no fewer than 20 days nor more than 35 days after the date on which we provide the notice described above to the holders of Series C Preferred Stock.

The Common Stock Price is (i) if the consideration to be received in the Change of Control by the holders of our common stock is solely cash, the amount of cash consideration per share of our common stock or (ii) if the consideration to be received in the Change of Control by holders of our common stock is other than solely cash (x) the average of the closing sale prices per share of our common stock (or, if no closing sale price is reported, the average of the closing bid and ask prices per share or, if more than one in either case, the average of the average closing bid and the average closing ask prices per share) for the ten consecutive trading days immediately preceding, but not including, the date on which such Change of Control occurred as reported on the principal U.S. securities exchange on which our common stock is then traded, or (y) the average of the last quoted bid prices for our common stock in the over-the-counter market as reported by Pink OTC Markets Inc. or similar organization for the ten consecutive trading days immediately preceding, but not including, the date on which such Change of Control occurred, if our common stock is not then listed for trading on a U.S. securities exchange.

Holders of Series C Preferred Stock may withdraw any notice of exercise of a Change of Control Conversion Right (in whole or in part) by a written notice of withdrawal delivered to our transfer agent prior to the close of business on the business day prior to the Change of Control Conversion Date. The notice of withdrawal delivered by any holder must state:

the number of withdrawn shares of Series C Preferred Stock;

if certificated Series C Preferred Stock has been surrendered for conversion, the certificate numbers of the withdrawn shares of Series C Preferred Stock; and

the number of shares of Series C Preferred Stock, if any, which remain subject to the holder's conversion notice.

Notwithstanding the foregoing, if any shares of Series C Preferred Stock are held in book-entry form through The Depository Trust Company (or DTC) or a similar depository (each, a Depository), the conversion notice and/or the notice of withdrawal, as applicable, must comply with applicable procedures, if any, of the applicable Depository.

Series C Preferred Stock as to which the Change of Control Conversion Right has been properly exercised and for which the conversion notice has not been properly withdrawn will be converted into the applicable Conversion Consideration in accordance with the Change of Control Conversion Right on the Change of Control Conversion Date, unless prior to the Change of Control Conversion Date we have provided notice of our election to redeem some or all of the shares of Series C Preferred Stock, as described above under Redemption Optional Redemption or Redemption Special Optional Redemption, in which case only the shares of Series C Preferred Stock properly surrendered for conversion and not properly withdrawn that are not called for redemption will be converted as aforesaid. If we elect to redeem shares of Series C Preferred Stock that would otherwise be converted into the applicable Conversion Consideration on a Change of Control Conversion Date, such shares of Series C Preferred Stock will not be so converted and the holders of such shares will be entitled to receive on the applicable redemption date the redemption price described above under Redemption Optional Redemption or Redemption Special Optional Redemption, applicable.

We will deliver all securities, cash and any other property owing upon conversion no later than the third business day following the Change of Control Conversion Date. Notwithstanding the foregoing, the persons entitled to receive any shares of our common stock or other securities delivered on conversion will be deemed to have become the holders of record thereof as of the Change of Control Conversion Date.

In connection with the exercise of any Change of Control Conversion Right, we will comply with all federal and state securities laws and stock exchange rules in connection with any conversion of Series C Preferred Stock into shares of our common stock or other property. Notwithstanding any other provision of the Series C Preferred Stock, no holder of Series C Preferred Stock will be entitled to convert such Series C Preferred Stock into shares of our common stock to the extent that receipt of such common stock would cause such holder (or any other person) to exceed the applicable share ownership limitations contained in our charter and the articles supplementary, unless we provide an exemption from this limitation to such holder. Please see the section entitled Restrictions on Ownership and Transfer below and Restrictions on Ownership and Transfer in the accompanying prospectus.

The Change of Control conversion feature may make it more difficult for a third party to acquire us or discourage a party from acquiring us. See Risk Factors You may not be able to exercise conversion rights upon a Change of Control and, if exercisable, the change of control conversion rights described in this prospectus supplement may not adequately compensate you and Risk Factors Our charter and the articles supplementary thereto establishing the terms of the Series C Preferred Stock will contain restrictions upon ownership and transfer of the Series C Preferred Stock, which may impair the ability of holders to convert Series C Preferred Stock into our common stock upon a Change of Control.

Except as provided above in connection with a Change of Control, the Series C Preferred Stock is not convertible into or exchangeable for any other securities or property.

### **Voting Rights**

Holders of the Series C Preferred Stock will not have any voting rights, except as set forth below or as otherwise required by law.

Whenever dividends on any shares of Series C Preferred Stock are in arrears for six or more quarterly dividend periods, whether or not consecutive, the number of directors constituting our board of directors will, subject to the maximum number of directors authorized under our bylaws then in effect, be automatically increased by two (if not already increased by two by reason of the election of directors by the holders of any other class or series of our

preferred stock we may issue upon which like voting rights have been conferred and are exercisable and with which the Series C Preferred Stock is entitled to vote as a class with respect to the election of those two directors) and the holders of Series C Preferred Stock (voting separately as a class with all other classes or series of preferred stock we may issue upon which like voting rights have been conferred and are exercisable (including holders of our Series A Preferred Stock, if applicable) and which are entitled to vote as a class with the Series C Preferred Stock in the election of those two directors) will be entitled to vote for the election of those two additional directors at a special meeting called by us at the request of the holders of record of at least 25% of the outstanding shares of Series C Preferred Stock or by the holders of any other class or series of preferred stock upon which like voting rights have been conferred and are exercisable and which are entitled to vote as a class with the Series C Preferred Stock in the election of those two directors (unless the request is received less than 90 days before the date fixed for the next annual or special meeting of stockholders, in which case, such vote will be held at the earlier of the next annual or special meeting of stockholders), and at each subsequent annual meeting until all dividends accumulated on the Series C Preferred Stock for all past dividend periods and the then current dividend period shall have been fully paid or declared and a sum sufficient for the payment thereof set aside for payment. In that case, the right of holders of the Series C Preferred Stock to elect any directors will cease and, unless there are other classes or series of our preferred stock upon which like voting rights have been conferred and are exercisable, any directors elected by holders of the Series C Preferred Stock shall immediately resign and the number of directors constituting the board of directors shall be reduced accordingly. In no event shall the holders of Series C Preferred Stock be entitled pursuant to these voting rights to elect a director that would cause us to fail to satisfy a requirement relating to director independence of any national securities exchange or quotation system on which any class or series of our stock is listed or quoted. For the avoidance of doubt, in no event shall the total number of directors elected by holders of the Series C Preferred Class (voting separately as a class with all other classes or series of preferred stock we may issue upon which like voting rights have been conferred and are exercisable and which are entitled to vote as a class with the Series C Preferred Stock in the election of such directors) pursuant to these voting rights exceed two.

If a special meeting is not called by us within 30 days after request from the holders of Series C Preferred Stock as described above, then the holders of record of at least 25% of the outstanding Series C Preferred Stock may designate a holder to call the meeting at our expense.

On each matter on which holders of Series C Preferred Stock are entitled to vote, each share of Series C Preferred Stock will be entitled to one vote, except that when shares of any other class or series of our preferred stock have the right to vote with the Series C Preferred Stock as a single class on any matter, the Series C Preferred Stock and the shares of each such other class or series will have one vote for each \$25.00 of liquidation preference (excluding accumulated dividends).

So long as any shares of Series C Preferred Stock remain outstanding, we will not, without the affirmative vote or consent of the holders of at least two-thirds of the shares of the Series C Preferred Stock outstanding at the time, given in person or by proxy, either in writing or at a meeting (voting together as a class with our Series A Preferred Stock and all series of parity preferred that we may issue upon which like voting rights have been conferred and are exercisable), (a) authorize or create, or increase the authorized or issued amount of, any class or series of capital stock ranking senior to the Series C Preferred Stock with respect to payment of dividends or the distribution of assets upon liquidation, dissolution or winding up or reclassify any of our authorized capital stock into such shares, or create, authorize or issue any obligation or security convertible into or evidencing the right to purchase any such shares; or (b) amend, alter or repeal the provisions of our charter, whether by merger, consolidation or otherwise, so as to materially and adversely affect any right, preference, privilege or voting power of the Series C Preferred Stock (each, an Event); provided, however, with respect to the occurrence of any Event set forth in (b) above, so long as the Series C Preferred Stock remains outstanding with the terms thereof materially unchanged, taking into account that, upon an occurrence of an Event, we may not be the surviving entity, the occurrence of any such Event shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting power of holders of the Series C Preferred Stock and, provided further, that any increase in the amount of the authorized preferred stock, including the Series C Preferred Stock, or the creation or issuance of any additional Series C Preferred Stock or other series of preferred stock that we may issue, or any increase in the amount of authorized shares of such series, in each case ranking on a parity with or junior to the Series C Preferred Stock that we may issue with respect to payment of dividends or the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers.

## Edgar Filing: ANNALY CAPITAL MANAGEMENT INC - Form 424B5

The foregoing voting provisions will not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of Series C Preferred Stock shall have been redeemed or called for redemption upon proper notice and sufficient funds shall have been deposited in trust to effect such redemption.

Except as expressly stated in the articles supplementary or as may be required by applicable law, the Series C Preferred Stock will not have any relative, participating, optional or other special voting rights or powers and the consent of the holders thereof shall not be required for the taking of any corporate action.

### Information Rights

During any period in which we are not subject to Section 13 or 15(d) of the Exchange Act and any shares of Series C Preferred Stock are outstanding, we will use our best efforts to (i) transmit by mail (or other permissible means under the Exchange Act) to all holders of Series C Preferred Stock, as their names and addresses appear on our record books and without cost to such holders, copies of the annual reports on Form 10-K and quarterly reports on Form 10-Q that we would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if we were subject thereto (other than any exhibits that would have been required) and (ii) promptly, upon request, supply copies of such reports to any holders or prospective holder of Series C Preferred Stock. We will use our best effort to mail (or otherwise provide) the information to the holders of the Series C Preferred Stock within 15 days after the respective dates by which a periodic report on Form 10-K or Form 10-Q, as the case may be, in respect of such information would have been required to be filed with the SEC, if we were subject to Section 13 or 15(d) of the Exchange Act, in each case, based on the dates on which we would be required to file such periodic reports if we were a non-accelerated filer within the meaning of the Exchange Act.

### Restrictions on Ownership and Transfer

To assist us in qualifying as a REIT, our charter and articles supplementary establishing the terms of the Series C Preferred Stock prohibit anyone from acquiring or holding, directly or constructively, ownership of a number of shares of any class of our capital stock in excess of 9.8% of the outstanding shares. For this purpose the term ownership generally means either direct ownership or constructive ownership in accordance with the constructive ownership provisions of Section 544 of the Code, as modified in Section 856(h) of the Code.

The constructive ownership provisions of Section 544 of the Code generally attribute ownership of securities owned by a corporation, partnership, estate or trust proportionately to its stockholders, partners or beneficiaries; attribute ownership of securities owned by family members to other members of the same family; and set forth rules for attributing securities constructively owned by one person to another person. To determine whether a person holds or would hold capital stock in excess of the 9.8% ownership limit, a person will be treated as owning not only shares of capital stock actually owned, but also any shares of capital stock attributed to that person under the attribution rules described above. Accordingly, a person who individually owns less than 9.8% of the shares outstanding may nevertheless be in violation of the 9.8% ownership limit.

Any transfer of shares of Series C Preferred Stock that would cause us to be disqualified as a REIT or that would (a) create a direct or constructive ownership of shares of Series C Preferred Stock in excess of the 9.8% ownership limit, or (b) result in the shares of our capital stock being beneficially owned (within the meaning of Section 856(a) of the Code) by fewer than 100 persons (determined without reference to any rules of attribution), or (c) result in us being closely held within the meaning of Section 856(h) of the Code, will be null and void, and the intended transferee (the purported transferee) will acquire no rights to those shares. In addition, no holder of Series C Preferred Stock will be entitled to convert the Series C Preferred Stock into our common stock upon a Change of Control to the extent that receipt of our common stock would cause the holder to actually or constructively own stock exceeding either of the 9.8% ownership thresholds unless we provide an exemption from these ownership limitations to such holder at our sole discretion. These restrictions on transferability and ownership will not apply if our Board of Directors determines that it is no longer in our best interests to continue to qualify as a REIT.

Any purported transfer of shares of Series C Preferred Stock or conversion of Series C Preferred Stock into shares of our common stock upon a Change of Control that would, if effective, result in a purported transferee

owning (directly or constructively) shares of capital stock in excess of the 9.8% ownership limit due to the unenforceability of the transfer restrictions described above will constitute excess securities. Excess securities will be transferred by operation of law to a trust that we will establish for the exclusive benefit of a charitable organization, until such time as the trustee of the trust retransfers the excess securities. The trustee will be a banking institution designated by us that is not affiliated with the purported transferee or us. While the excess securities are held in trust, the purported transferee will not be entitled to vote or to share in any dividends or other distributions with respect to the securities. Subject to the 9.8% ownership limit, excess securities may be transferred by the trust to any person (if such transfer would not result in excess securities) at a price not to exceed the price paid by the purported transferee (or, if no consideration was paid by the purported transferee, the fair market value of the excess securities on the date of the purported transfer), at which point the excess securities will automatically cease to be excess securities.

Upon a purported transfer of excess securities, the purported transferee shall cease to be entitled to distributions, voting rights and other benefits with respect to the shares of capital stock except the right to payment of the purchase price for the shares of capital stock on the retransfer of securities as provided above. Any dividend or distribution paid to a purported transferee on excess securities prior to our discovery that shares of capital stock have been transferred in violation of our charter shall be repaid to us upon demand. If these transfer restrictions are determined to be void, invalid or unenforceable by a court of competent jurisdiction, then the purported transferee of any excess securities may be deemed, at our option, to have acted as an agent on our behalf in acquiring the excess securities and to hold the excess securities on our behalf.

Any person who acquires shares in violation of our charter and the articles supplementary, or any person who is a purported transferee such that excess securities results, must immediately give written notice or, in the event of a proposed or attempted transfer that would be void as set forth above, give at least 15 days prior written notice to us of such event and shall provide us such other information as we may request in order to determine the effect, if any, of the transfer on our qualification as a REIT. In addition, every record owner of 5.0% or more (during any period in which the number of record stockholders is 2,000 or more) or 1.0% or more (during any period in which the number of record stockholders is greater than 200 but less than 2,000) or 1/2% or more (during any period in which the number of record stockholders is 200 or less) of the number or value of our outstanding shares must send us an annual written notice by January 30 stating the name and address of the record owner and the number of shares held and describing how the shares are held. Further, each stockholder is required to disclose to us in writing information with respect to the direct and constructive ownership of shares as the Board of Directors deems reasonably necessary to comply with the REIT provisions of the Code, to comply with the requirements of any taxing authority or governmental agency or to determine any such compliance.

Our Board of Directors may increase or decrease the 9.8% ownership limit. In addition, to the extent consistent with the REIT provisions of the Code, our Board of Directors may, pursuant to our charter and the articles supplementary, waive the 9.8% ownership limit for a purchaser of our stock. In connection with any such waiver, we may require that the stockholder requesting the waiver enter into an agreement with us providing that we may repurchase shares from the stockholder under certain circumstances to ensure compliance with the REIT provisions of the Code. The repurchase would be at fair market value as set forth in the agreement between us and the stockholder. The consideration received by the stockholder in the repurchase might be characterized as the receipt by the stockholder of a dividend from us, and any stockholder entering into an agreement with us should consult its tax advisor. At present, we do not intend to waive the 9.8% ownership limit for any purchaser.

For further information regarding restrictions on ownership and transfer of the Series C Preferred Stock, please see the section entitled Restrictions on Ownership and Transfer in the accompanying prospectus.

#### **Preemptive Rights**

No holders of the Series C Preferred Stock will, as holders of Series C Preferred Stock, have any preemptive rights to purchase or subscribe for our common stock or our any other security.

## Book-Entry Procedures

DTC will act as securities depository for the Series C Preferred Stock. We will issue one or more fully registered global securities certificates in the name of DTC's nominee, Cede & Co. These certificates will represent the total aggregate number of shares of Series C Preferred Stock. We will deposit these certificates with DTC or a custodian appointed by DTC. We will not issue certificates to you for the shares of Series C Preferred Stock that you purchase, unless DTC's services are discontinued as described below.

Title to book-entry interests in the Series C Preferred Stock will pass by book-entry registration of the transfer within the records of DTC in accordance with its procedures. Book-entry interests in the securities may be transferred within DTC in accordance with procedures established for these purposes by DTC. Each person owning a beneficial interest in shares of the Series C Preferred Stock must rely on the procedures of DTC and the participant through which such person owns its interest to exercise its rights as a holder of the Series C Preferred Stock.

DTC has advised us that it is a limited-purpose trust company organized under the New York Banking Law, a member of the Federal Reserve System, a clearing corporation within the meaning of the New York Uniform Commercial Code and a clearing agency registered under the provisions of Section 17A of the Exchange Act. DTC holds securities that its participants ( Direct Participants ) deposit with DTC. DTC also facilitates the settlement among Direct Participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in Direct Participants' accounts, thereby eliminating the need for physical movement of securities certificates. Direct Participants include securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. Access to the DTC system is also available to others such as securities brokers and dealers, including the underwriters, banks and trust companies that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ( Indirect Participants ). The rules applicable to DTC and its Direct and Indirect Participants are on file with the SEC.

When you purchase shares of Series C Preferred Stock within the DTC system, the purchase must be by or through a Direct Participant. The Direct Participant will receive a credit for the Series C Preferred Stock on DTC's records. You will be considered to be the beneficial owner of the Series C Preferred Stock. Your beneficial ownership interest will be recorded on the Direct and Indirect Participants' records, but DTC will have no knowledge of your individual ownership. DTC's records reflect only the identity of the Direct Participants to whose accounts shares of Series C Preferred Stock are credited.

You will not receive written confirmation from DTC of your purchase. The Direct or Indirect Participants through whom you purchased the Series C Preferred Stock should send you written confirmations providing details of your transactions, as well as periodic statements of your holdings. The Direct and Indirect Participants are responsible for keeping an accurate account of the holdings of their customers like you.

Transfers of ownership interests held through Direct and Indirect Participants will be accomplished by entries on the books of Direct and Indirect Participants acting on behalf of the beneficial owners.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to beneficial owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

We understand that, under DTC's existing practices, in the event that we request any action of the holders, or an owner of a beneficial interest in a global security, such as you, desires to take any action which a holder is entitled to take under our charter (including the articles supplementary designating the Series C Preferred Stock), DTC would authorize the Direct Participants holding the relevant shares to take such action, and those Direct Participants and any Indirect Participants would authorize beneficial owners owning through those Direct and Indirect Participants to take such action or would otherwise act upon the instructions of beneficial owners owning through them.

Any redemption notices with respect to the Series C Preferred Stock will be sent to Cede & Co. If less than all of the outstanding shares of Series C Preferred Stock are being redeemed, DTC will reduce each Direct Participant's holdings of shares of Series C Preferred Stock in accordance with its procedures.

## Edgar Filing: ANNALY CAPITAL MANAGEMENT INC - Form 424B5

In those instances where a vote is required, neither DTC nor Cede & Co. itself will consent or vote with respect to the shares of Series C Preferred Stock. Under its usual procedures, DTC would mail an omnibus proxy to us as soon as possible after the record date. The omnibus proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants whose accounts the shares of Series C Preferred Stock are credited to on the record date, which are identified in a listing attached to the omnibus proxy.

Dividends on the Series C Preferred Stock will be made directly to DTC's nominee (or its successor, if applicable). DTC's practice is to credit participants' accounts on the relevant payment date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payment on that payment date.

Payments by Direct and Indirect Participants to beneficial owners will be governed by standing instructions and customary practices, as in the case with securities held for the accounts of customers in bearer form or registered in street name. These payments will be the responsibility of the participant and not of DTC, us or any agent of ours.

DTC may discontinue providing its services as securities depository with respect to the Series C Preferred Stock at any time by giving reasonable notice to us. Additionally, we may decide to discontinue the book-entry only system of transfers with respect to the Series C Preferred Stock. In that event, we will print and deliver certificates in fully registered form for the Series C Preferred Stock. If DTC notifies us that it is unwilling to continue as securities depository, or it is unable to continue or ceases to be a clearing agency registered under the Exchange Act and a successor depository is not appointed by us within 90 days after receiving such notice or becoming aware that DTC is no longer so registered, we will issue the Series C Preferred Stock in definitive form, at our expense, upon registration of transfer of, or in exchange for, such global security.

According to DTC, the foregoing information with respect to DTC has been provided to the financial community for informational purposes only and is not intended to serve as a representation, warranty or contract modification of any kind.

### **Global Clearance and Settlement Procedures**

Initial settlement for the Series C Preferred Stock will be made in immediately available funds. Secondary market trading among DTC's Participants will occur in the ordinary way in accordance with DTC's rules and will be settled in immediately available funds using DTC's Same-Day Funds Settlement System.

### **Transfer Agent and Registrar**

The transfer agent and registrar for the Series C Preferred Stock is Computershare Shareowner Services LLC. Its principal business address is 480 Washington Blvd, 29<sup>th</sup> Floor, Jersey City, NJ 07310 and its telephone number is (800) 522-6645.

**ADDITIONAL MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS**

The following discussion supplements the discussion under the heading "Material Federal Income Tax Considerations" in the accompanying prospectus. Terms used in this section but not defined in this section have the meanings ascribed to them elsewhere in this prospectus supplement or in "Material Federal Income Tax Considerations" in the accompanying prospectus. You should refer to the discussion in the accompanying prospectus under "Material Federal Income Tax Considerations" for a discussion of the tax consequences of our election to be taxed as a REIT and the tax consequences to Owners of shares of our common stock. The following is a summary of certain material U.S. federal income tax considerations relates to the acquisition, ownership and disposition of Series C Preferred Stock.

This discussion does not purport to be a complete analysis of all the potential tax considerations relating to the acquisition, ownership and disposition of Series C Preferred Stock and our common stock into which the Series C Preferred Stock may be converted. The discussion is based on the Code, current, temporary and proposed Treasury Regulations, the legislative history of the Code, current administrative interpretations and practices of the IRS, including its practices and policies as endorsed in private letter rulings, which are not binding on the IRS (except with respect to the taxpayer that received the ruling), and existing court decisions. Future legislation, regulations, administrative interpretations, and court decisions could change current law or adversely affect existing interpretations of current law. Any change could apply retroactively. The IRS could challenge the statements in this discussion, which do not bind the IRS or the courts.

This summary applies to you only if you are a beneficial owner of Series C Preferred Stock and you acquire the Series C Preferred Stock in this offering. This summary deals only with Series C Preferred Stock and common shares held as "capital assets" (within the meaning of Section 1221 of the Code) and does not address tax considerations applicable to an investor's particular circumstances or to investors that may be subject to special tax rules, including, without limitation:

dealers in securities or currencies;

traders in securities;

Domestic Owners whose functional currency is not the United States dollar;

persons holding Series C Preferred Stock or common stock as part of a conversion, constructive sale, wash sale or other integrated transaction or a hedge, straddle, or synthetic security;

persons subject to the alternative minimum tax;

certain United States expatriates;

financial institutions;

insurance companies;

controlled foreign corporations, passive foreign investment companies and regulated investment companies, and shareholders of such corporations;

entities that are tax-exempt from U.S. federal income tax, such as retirement plans, individual retirement accounts, and tax-deferred accounts; and

pass-through entities, including partnerships and entities and arrangements classified as partnerships for U.S. federal tax purposes, and beneficial owners of pass-through entities.

If you are a partnership (or an entity or arrangement classified as a partnership for U.S. federal income tax purposes) holding Series C Preferred Stock or common stock, or a partner in such a partnership, the U.S. federal income tax treatment of a partner in the partnership generally will depend on the status of the partner and the activities of the partnership, and you are encouraged to consult your own tax advisor regarding the U.S. federal income and estate tax consequences of purchasing, owning and disposing of the Series C Preferred Stock and the common stock.

You are encouraged to consult your own tax advisor before you purchase Series C Preferred Stock regarding the particular U.S. federal, state and local and non-U.S. income and other tax consequences of purchasing, owning, and disposing of the Series C Preferred Stock and the common stock that may be applicable to you in light of your particular circumstances.

#### **Taxation of Owners of Series C Preferred Stock Generally**

The accompanying prospectus, under the heading "Material Federal Income Tax Considerations - Taxation of Owners" describes in general the tax treatment of distributions that we make in respect of shares of our capital stock and the tax consequences that arise from the sale or disposition of shares of our capital stock. The discussion below supplements the discussion set out in the accompanying prospectus with respect to an investment in Series C Preferred Stock.

#### **Redemption of Series C Preferred Stock**

The treatment accorded to any redemption by us for cash (as distinguished from a sale, exchange or other disposition) of Series C Preferred Stock can only be determined on the basis of particular facts as to each Owner at the time of redemption. In general, an Owner of Series C Preferred Stock will recognize capital gain or loss measured by the difference between the amount received upon the redemption (less any portion thereof attributable to dividend arrearage, which will be taxable as a dividend to the extent of our current or accumulated earnings and profits) and such Owner's adjusted tax basis in the Series C Preferred Stock redeemed (provided the Series C Preferred Stock is held as a capital asset) if such redemption (i) results in a complete termination of the Owner's interest in all classes of our stock under Section 302(b)(3) of the Code, (ii) is substantially disproportionate with respect to the Owner's interest in our stock under Section 302(b)(2) of the Code (which will not be the case if only Series C Preferred Stock is redeemed, since they generally do not have voting rights), or (iii) is not essentially equivalent to a dividend with respect to the Owner of Series C Preferred Stock under Section 302(b)(1) of the Code.

In applying these tests, there must be taken into account not only the Series C Preferred Stock owned by the Owner, but also such Owner's ownership of our common stock and any other options (including stock purchase rights) to acquire any of the foregoing. The Owner of Series C Preferred Stock also must take into account any such securities (including options) which are considered to be owned by such Owner by reason of the constructive ownership rules set forth in Sections 318 and 302(c) of the Code. If a particular Owner of Series C Preferred Stock owns (actually or constructively) none of our common stock or an insubstantial percentage of our outstanding common stock, then based upon current law, it is probable that the redemption of Series C Preferred Stock from such an Owner would be considered not essentially equivalent to a dividend. However, whether a redemption is not essentially equivalent to a dividend depends on all of the facts and circumstances, and an Owner of Series C Preferred Stock intending to rely on any of these tests at the time of redemption should consult the Owner's own tax advisor to determine their application to the Owner's particular situation.

If the redemption does not meet any of the tests under Section 302 of the Code, then the redemption proceeds received from the Series C Preferred Stock will be treated as a dividend on the Series C Preferred Stock to the extent of our current or accumulated earnings and profits. If the redemption proceeds are taxed as a dividend, the Owner's adjusted tax basis in the Series C Preferred Stock will be transferred to any other stock held by the Owner. If the Owner of Series C Preferred Stock owns none of our other stock, under certain circumstances, such basis may be transferred to a related person, or it may be lost entirely.

Proposed Treasury Regulations would alter the method for recovering an Owner's adjusted tax basis in any of our Series C Preferred Stock redeemed in a dividend equivalent redemption. Under the Proposed Treasury

Regulations, an Owner would be treated as realizing a capital loss on the date of the dividend equivalent redemption of all of our Series C Preferred Stock actually owned by the Owner equal to the adjusted tax basis of such stock redeemed, subject to adjustments. The recognition of such loss would generally be deferred until the occurrence of specified events, such as, for example, the Owner's ceasing to actually or constructively own any of our stock.

### **Conversion of Series C Preferred Stock**

Subject to the discussion below, assuming that Series C Preferred Stock will not be converted at a time when there are distributions in arrears, in general, no gain or loss will be recognized for U.S. federal income tax purposes upon the conversion of our Series C Preferred Stock into common stock. Thus, the basis that an Owner will have for tax purposes in the common stock received will be equal to the adjusted basis the Owner had in the Series C Preferred Stock converted (but the basis will be reduced by the portion of adjusted tax basis allocated to any fractional share exchanged for cash) and, provided that the Series C Preferred Stock was held as a capital asset, the holding period for the common stock received will include the holding period for the Series C Preferred Stock redeemed or converted. An Owner will generally recognize gain or loss on the receipt of cash in lieu of a fractional common share in an amount equal to the difference between the amount of cash received and the Owner's adjusted basis in such fractional share.

If a conversion occurs when there is a dividend arrearage on the Series C Preferred Stock and the fair market value of the common stock exceeds the issue price of the Series C Preferred Stock, a portion of the common stock received might be treated as a dividend distribution taxable as ordinary income.

A Foreign Owner generally will not recognize gain or loss upon the conversion of the Series C Preferred Stock into our common stock, provided the Series C Preferred Stock does not constitute a USRPI. Even if the Series C Preferred Stock does constitute a USRPI, provided our common stock also constitutes a USRPI, a Foreign Owner generally will not recognize gain or loss upon a conversion of the Series C Preferred Stock into our common stock provided certain FIRPTA-related reporting requirements are satisfied. If the Series C Preferred Stock does constitute a USRPI and such requirements are not satisfied, however, a conversion of Series C Preferred Stock for our common stock will be treated as a taxable exchange. Such a taxable exchange will be subject to tax under FIRPTA at the rate of tax, including any applicable capital gains rates, that would apply to a domestic holder of the same type (e.g., an individual or a corporation, as the case may be) on the excess, if any, of the fair market value of such Foreign Owner's common stock received over such Foreign Owner's adjusted basis in its Series C Preferred Stock. Collection of such tax will be enforced by a refundable withholding tax at a rate of 10% of the value of our common stock received. We do not expect that our capital stock will constitute a USRPI.

### **Recent Tax Law Changes**

*Medicare Tax.* For taxable years beginning after December 31, 2012, certain taxable Domestic Owners who are individuals, estates or trusts will be subject to a 3.8% tax on all or a portion of their net investment income, which may include all or a portion of their dividends on Series C Preferred Stock and net gains from the taxable disposition of their Series C Preferred Stock. Domestic Owners that are individuals, estates or trusts should consult their tax advisors regarding the applicability of the Medicare tax to any of their income or gains in respect of the Series C Preferred Stock.

*Reporting and Withholding on Foreign Financial Accounts.* On March 18, 2010, the President signed the Hiring Incentives to Restore Employment Act (the HIRE Act) into law. This law imposes a 30% U.S. federal withholding tax on dividends on, and the gross proceeds from the sale or other disposition of, the Series C Preferred Stock to a foreign financial institution or non-financial foreign entity, unless (i) in the case of a foreign financial institution, such institution enters into an agreement with the U.S. government to withhold on certain payments and to collect and provide to the U.S. tax authorities substantial information regarding U.S. account holders of such institution (which includes certain equity and debt holders of such institution, as well as certain account holders that are foreign entities with U.S. owners) and to withhold on certain payments and (ii) in the case of a non-financial foreign entity, such entity provides the withholding agent with a certification identifying the direct and indirect U.S. owners of the entity. Although the withholding tax provisions of the HIRE Act were to have been effective beginning in 2013, the IRS has provided for a phased-in implementation of these provisions. Withholding on dividends, but not gross proceeds from the sale or other disposition of the Series C Preferred Stock, generally is to begin after December 31,

## Edgar Filing: ANNALY CAPITAL MANAGEMENT INC - Form 424B5

2013. Withholding on gross proceeds is generally to begin after December 31, 2014. Under certain circumstances, a Foreign Owner might be eligible for refunds or credits of such taxes. Prospective investors should consult their tax advisors regarding the possible implications of this recently enacted legislation on the acquisition, ownership and disposition of the Series C Preferred Stock.

*Extension of Reduced Tax Rates.* On December 17, 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the Job Creation Act ) was enacted. Among other things, the Job Creation Act extended until December 31, 2012 certain reduced tax rates that had been scheduled to expire after December 31, 2010, including the reduced 15% maximum rate of tax on capital gains, the reduced 35% maximum rate of tax on ordinary income, and the application of the capital gains tax rate to certain qualified dividend income discussed in the accompanying prospectus.

S-32

---

**UNDERWRITING**

Subject to the terms and conditions contained in an underwriting agreement among us and the underwriters named below, for whom Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC and UBS Securities LLC are acting as representatives, we have agreed to sell to the underwriters, and the underwriters have agreed, severally and not jointly, to purchase from us, the respective number of shares of the Series C Preferred Stock shown opposite their names below:

Underwriter	Number of Shares
Merrill Lynch, Pierce, Fenner & Smith Incorporated	2,200,000
J.P. Morgan Securities LLC	1,925,000
Morgan Stanley & Co. LLC	2,200,000
UBS Securities LLC	2,200,000
Barclays Capital Inc.	330,000
Credit Suisse Securities (USA) LLC	330,000
Deutsche Bank Securities Inc.	330,000
Goldman, Sachs & Co.	330,000
RBC Capital Markets, LLC	330,000
Stifel, Nicolaus & Company, Incorporated	330,000
BB&T Capital Markets, a division of Scott & Stringfellow, LLC	49,500
D.A. Davidson & Co.	49,500
Davenport & Company LLC	49,500
HRC Investment Services, Inc.	49,500
Janney Montgomery Scott LLC	49,500
Keefe, Bruyette & Woods, Inc.	49,500
Oppenheimer & Co. Inc.	49,500
Robert W. Baird & Co. Incorporated	49,500
Wedbush Securities Inc.	49,500
William Blair & Company, L.L.C.	49,500
<b>Total</b>	<b>11,000,000</b>

The underwriters have agreed, severally and not jointly, to purchase all of the Series C Preferred Stock sold under the underwriting agreement if any shares of Series C Preferred Stock are purchased, other than those shares of Series C Preferred Stock covered by the overallotment option described below.

We have agreed to indemnify the underwriters and their respective controlling persons against specified liabilities in connection with this offering, including liabilities under the Securities Act of 1933, as amended (the Securities Act), or to contribute to payments the underwriters may be required to make in respect of those liabilities.

The underwriters are offering the Series C Preferred Stock, subject to prior sale, when, as and if issued to and accepted by them, subject to approval of legal matters by counsel and other conditions such as the receipt by the underwriters of officers' certificates, comfort letters and legal opinions. The underwriters reserve the right to withdraw, cancel or modify offers to the public and to reject orders in whole or in part.

**Commissions and Discounts**

The representatives have advised us that they propose initially to offer the Series C Preferred Stock to the public at the public offering price appearing on the cover page of this prospectus supplement and to dealers at that price less a concession not in excess of \$0.50 per share. The underwriters may allow, and the dealers may reallow, a discount not in excess of \$0.45 per share to other dealers. After the initial offering, the public offering price and other selling terms may be changed.

The following table shows the per share and total public offering price, the underwriting discount and proceeds before expenses to us. This information assumes either no exercise or full exercise by the underwriters of their overallotment option described below.

Edgar Filing: ANNALY CAPITAL MANAGEMENT INC - Form 424B5

	<u>Per Share</u>	<u>Without Option</u>	<u>With Option</u>
Public offering price	\$ 25.0000	\$ 275,000,000	\$ 316,250,000
Underwriting discount	\$ 0.7875	\$ 8,662,500	\$ 9,961,875
Proceeds, before expenses, to us	\$ 24.2125	\$ 266,337,500	\$ 306,288,125

S-33

---

## Edgar Filing: ANNALY CAPITAL MANAGEMENT INC - Form 424B5

The expenses of the offering, exclusive of the underwriting discount, are estimated at approximately \$250,000 and are payable by us.

### Settlement

We expect that delivery of the Series C Preferred Stock will be made to investors on or about May 16, 2012, which will be the fifth Business Day following the date of this prospectus supplement (such settlement being referred to as "T+5"). Under Rule 15c6-1 under the Exchange Act, trades in the secondary market are required to settle in three business days, unless the parties to any such trade expressly agree otherwise. Accordingly, purchasers who wish to trade Series C Preferred Stock prior to May 16, 2012 will be required, by virtue of the fact that the Series C Preferred Stock initially settle in T+5, to specify an alternate settlement arrangement at the time of any such trade to prevent a failed settlement. Purchasers of the Series C Preferred Stock who wish to trade the Series C Preferred Stock prior to their date of delivery hereunder should consult their advisors.

### Overallotment Option

We have granted an option to the underwriters to purchase up to 1,650,000 additional shares of Series C Preferred Stock at the public offering price appearing on the cover page of this prospectus supplement, less the underwriting discount, solely to cover overallotments. To the extent this option is exercised, each underwriter will become obligated, subject to conditions, to purchase a number of additional shares of Series C Preferred Stock approximately proportionate to its initial purchase commitment. The underwriters may exercise this option for 30 days from the date of this prospectus supplement. If any additional shares of Series C Preferred Stock are purchased, the underwriters will offer the additional shares of Series C Preferred Stock on the same terms as those on which the 11,000,000 shares of Series C Preferred Stock are being offered.

### No Sales of Series C Preferred Stock

We have agreed for a period from the date of this prospectus supplement through and including the date 30 days after the date hereof that we will not, without the prior written consent of Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC and UBS Securities LLC, offer, sell, contract to sell or otherwise dispose of any of our securities that are substantially similar to the Series C Preferred Stock, including any securities that are convertible into or exchangeable for, or that represent rights to receive, Series C Preferred Stock or substantially similar securities.

### New York Stock Exchange Listing

No market currently exists for the Series C Preferred Stock. We intend to file an application to list the Series C Preferred Stock on the NYSE under the symbol "NLYPrC". If listing is approved, we expect trading to commence within 30 days after the initial delivery of the Series C Preferred Stock. The underwriters have advised us that they intend to make a market in the Series C Preferred Stock before commencement of trading on the NYSE. They will have no obligation to make a market in the Series C Preferred Stock, however, and may cease market-making activities, if commenced, at any time.

### Price Stabilization and Short Positions

Until the distribution of the Series C Preferred Stock is completed, SEC rules may limit the ability of the underwriters to bid for or purchase the Series C Preferred Stock. However, the representatives may engage in transactions that have the effect of stabilizing the price of the Series C Preferred Stock, such as purchases that peg, fix or maintain that price.

If the underwriters create a short position in the Series C Preferred Stock in connection with this offering, i.e., if they sell more Series C Preferred Stock than are listed on the cover page of this prospectus supplement, the underwriters may reduce that short position by purchasing Series C Preferred Stock in the open market. The

## Edgar Filing: ANNALY CAPITAL MANAGEMENT INC - Form 424B5

underwriters may also elect to reduce any short position by exercising all or part of the overallotment option described above. Purchases of Series C Preferred Stock that stabilize the per share price or to reduce a short position may cause the price of the Series C Preferred Stock to be higher than it might be in the absence of those purchases.

Neither we nor the underwriters make any representation or prediction as to the direction or magnitude of any effect that the transactions described above may have on the price of the Series C Preferred Stock. In addition, neither we nor the underwriters make any representation that the underwriters will engage in those transactions or that those transactions, once commenced, will not be discontinued without notice.

### **Notice to Prospective Investors in the European Economic Area**

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a Relevant Member State ), with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the Relevant Implementation Date ), no offer of Series C Preferred Stock may be made to the public in that Relevant Member State other than:

- A. to any legal entity which is a qualified investor as defined in the Prospectus Directive;
- B. to fewer than 100 or, if the Relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150, natural or legal persons (other than qualified investors as defined in the Prospectus Directive), as permitted under the Prospectus Directive, subject to obtaining the prior consent of the representatives; or
- C. in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of Series C Preferred Stock shall require us or the representatives to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

Each person in a Relevant Member State who initially acquires any Series C Preferred Stock or to whom any offer is made will be deemed to have represented, acknowledged and agreed that (A) it is a qualified investor within the meaning of the law in that Relevant Member State implementing Article 2(1)(e) of the Prospectus Directive, and (B) in the case of any Series C Preferred Stock acquired by it as a financial intermediary, as that term is used in Article 3(2) of the Prospectus Directive, the Series C Preferred Stock acquired by it in the offering have not been acquired on behalf of, nor have they been acquired with a view to their offer or resale to, persons in any Relevant Member State other than qualified investors as defined in the Prospectus Directive, or in circumstances in which the prior consent of the representatives has been given to the offer or resale. In the case of any Series C Preferred Stock being offered to a financial intermediary as that term is used in Article 3(2) of the Prospectus Directive, each such financial intermediary will be deemed to have represented, acknowledged and agreed that the Series C Preferred Stock acquired by it in the offer have not been acquired on a non-discretionary basis