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J C PENNEY CO INC  
Form S-8 POS  
January 28, 2002

AS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION ON January 28, 2002

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REGISTRATION NO. 33-28390-99

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

POST-EFFECTIVE AMENDMENT NO. 1  
TO  
FORM S-8

REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

-----  
J. C. PENNEY COMPANY, INC.  
(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

26-0037077  
(I.R.S. Employer  
Identification No.)

6501 Legacy Drive  
Plano, Texas 75024-3698  
(Address of principal executive offices, including zip code)

J. C. PENNEY COMPANY, INC.  
1989 EQUITY COMPENSATION PLAN  
(Full title of the plan)

CHARLES R. LOTTER, ESQ.  
Executive Vice President, Secretary and General Counsel  
J. C. PENNEY COMPANY, INC.

6501 Legacy Drive  
Plano, Texas 75024-0005  
(972) 431-1201

(Name, address, and telephone number, including area code, of agent for service)

EXPLANATORY NOTE  
POST-EFFECTIVE AMENDMENT NO. 1 TO FORM S-8

This post-effective amendment is being filed pursuant to Rule 414 under the Securities Act of 1933, as amended (the "Securities Act"), to reflect the adoption by J.C. Penney Corporation, Inc., a Delaware corporation (formerly J.C. Penney Company, Inc. and referred to herein as the "Predecessor Registrant"), of a holding company form of organizational structure. The holding company organizational structure was implemented by the merger (the "Merger") in accordance with Section 251(g) of the Delaware General Corporation Law, of JCP Merger Sub, Inc., a Delaware corporation, with and into the Predecessor Registrant, with the Predecessor Registrant being the surviving corporation. In the Merger, which was consummated at 12:00 a.m., Eastern Time, on January 27, 2002 (the "Effective Time"), each share of the issued and outstanding common stock and preferred stock of the Predecessor Registrant was converted into one

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share of common stock and preferred stock, respectively, of J. C. Penney Holdings, Inc., a Delaware corporation (the "Registrant"), which prior to the Merger changed its name to J. C. Penney Company, Inc. Pursuant to the Merger, the Predecessor Registrant became a direct, wholly-owned subsidiary of the Registrant.

In accordance with Rule 414, the Registrant, as the successor issuer, hereby expressly adopts this Registration Statement, as well as the plan to which it relates, of the Predecessor Registrant as its own for all purposes of the Securities Act and the Securities Exchange Act of 1934, as amended (the "Exchange Act").

### PART II

#### INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

##### Item 3. Incorporation of Documents by Reference.

The following documents filed with the Securities and Exchange Commission pursuant to the Exchange Act are incorporated by reference into this Registration Statement:

(a-1) The Predecessor Registrant's Annual Report on Form 10-K for the 52 weeks ended January 27, 2001.

(a-2) The Predecessor Registrant's Quarterly Reports on Form 10-Q for the periods ended April 28, 2001; July 28, 2001; and October 27, 2001

(a-3) The Predecessor Registrant's Current Reports on Form 8-K dated June 18, 2001; September 10, 2001; September 21, 2001; October 9, 2001; and January 28, 2002.

(a-4) Registrant's Current Report on Form 8-K, dated January 28, 2002.

(a-5) The Annual Report on Form 10-K of J. C. Penney Funding Corporation ("Funding") for the 52 weeks ended January 27, 2001.

(a-6) Funding's Quarterly Reports on Form 10-Q for the periods ended April 28, 2001; July 28, 2001; and October 27, 2001.

(b) All documents subsequently filed by the Registrant and Funding pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents.

(c) The description of the Registrant's Common Stock and associated Rights and Series B ESOP Convertible Preferred Stock contained in Item 5 of the Registrant's Current Report on Form 8-K, dated January 28, 2002, is hereby incorporated by reference.

#### II-1

##### Item 5. Interests of Named Experts and Counsel.

The legality of the shares of the Registrant's common stock has been passed upon by C. R. Lotter, Esq., Executive Vice President, Secretary and

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General Counsel of the Registrant. As of January 15, 2002, Mr. Lotter owned 22,569 shares of the Predecessor Registrant's common stock and common stock voting equivalents, including shares credited to his accounts under the Predecessor Registrant's Savings, Profit-Sharing and Stock Ownership Plan. As of January 15, 2002, Mr. Lotter had outstanding options to purchase 196,000 shares of the Predecessor Registrant's common stock. At the Effective Time, all such shares of common stock, voting equivalents and options were converted pursuant to the Merger into the same number and types of shares of common stock, voting equivalents and options, respectively, of the Registrant.

### Item 6. Indemnification of Directors and Officers.

Section 145 of the General Corporation Law of Delaware permits indemnification of the directors and officers of the Registrant involved in a civil or criminal action, suit or proceeding, including, under certain circumstances, suits by or in the right of the Registrant, for any expenses, including attorneys' fees, and (except in the case of suits by or in the right of the Company) any liabilities which they may have incurred in consequence of such action, suit or proceeding under the conditions stated in said Section.

Article X of the Registrant's Bylaws provides, in substance, for indemnification by the Registrant of its directors and officers in accordance with the provisions of the General Corporation Law of Delaware. The Registrant has entered into indemnification agreements with its current directors and certain of its current officers which generally provide for indemnification by the Registrant except as prohibited by applicable law.

In addition, the Registrant has purchased insurance coverage under policies which insure the Registrant for amounts which the Registrant is required or permitted to pay as indemnification of directors and certain officers of the Registrant and its subsidiaries, and which insure directors and certain officers of the Registrant and its subsidiaries against certain liabilities which might be incurred by them in such capacities and for which they are not entitled to indemnification by the Registrant.

II-2

### Item 8. Exhibits.

The following exhibits are filed herewith unless otherwise indicated:

Exhibit Number -----	Description of Document -----
4.1	Registrant's Restated Certificate of Incorporation, as amended (incorporated by reference to Exhibit 3(i) to the Registrant's Current Report on Form 8-K, dated January 28, 2002).
4.2	Bylaws of the Registrant, as amended (incorporated by reference to Exhibit 3(ii) to the Registrant's Current Report on Form 8-K, dated January 28, 2002).
4.3	Rights Agreement, dated as of January 23, 2002, between the Registrant and Mellon Investor Services LLC, as Rights Agent (incorporated by reference to Exhibit 4 of the Registrant's Current Report on Form 8-K, dated January 28, 2002).
5.1	Opinion of C. R. Lotter regarding legality of securities being registered.

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- 23.1 Consent of KPMG LLP.
- 23.2 Consent of C. R. Lotter included in Exhibit 5.1.
- 24.1 Power of Attorney.

Item 9. Undertakings.

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is on Form S-3 or Form S-8 and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

II-3

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise,

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the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

II-4

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Plano, State of Texas, on the 28th day of January, 2002.

J. C. PENNEY COMPANY, INC.

By: /s/ R. B. Cavanaugh

-----  
R. B. Cavanaugh  
Executive Vice President  
and Chief Financial Officer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signatures -----	Title -----	Date -----
A. I. Questrom*	Chairman of the	January 28, 2002
-----		
A. I. Questrom	Board and Chief Executive Officer (principal executive officer); Director	
/s/ R. B. Cavanaugh	Executive Vice	January 28, 2002
-----		
R. B. Cavanaugh	President and Chief Financial Officer (principal financial officer)	
W. J. Alcorn*	Vice President and	January 28, 2002

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----- W. J. Alcorn	Controller (principal accounting officer)	
M. A. Burns* -----	Director	January 28, 2002
M. A. Burns		
T. J. Engibous* -----	Director	January 28, 2002
T. J. Engibous		

II-5

K. B. Foster* -----	Director	January 28, 2002
K. B. Foster		
V. E. Jordan, Jr.* -----	Director	January 28, 2002
V. E. Jordan, Jr.		
J. C. Pfeiffer* -----	Director	January 28, 2002
J. C. Pfeiffer		
A. W. Richards* -----	Director	January 28, 2002
A. W. Richards		
C. S. Sanford, Jr.* -----	Director	January 28, 2002
C. S. Sanford, Jr.		
R. G. Turner* -----	Director	January 28, 2002
R. G. Turner		

\*By: /s/ R. B. Cavanaugh  
-----  
R. B. Cavanaugh  
Attorney-in-fact

II-6

EXHIBITS

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4.2	Bylaws of the Registrant, as amended (incorporated by reference to Exhibit 3(ii) to the Registrant's Current Report on Form 8-K,

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dated January 28, 2002).

- 4.3 Rights Agreement, dated as of January 23, 2002, between the Registrant and Mellon Investor Services LLC, as Rights Agent (incorporated by reference to Exhibit 4 of the Registrant's Current Report on Form 8-K, dated January 28, 2002).
- 5.1 Opinion of C. R. Lotter regarding legality of securities being registered.
- 23.1 Consent of KPMG LLP.
- 23.2 Consent of C. R. Lotter included in Exhibit 5.1.
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