

JOHNSON CONTROLS INC

Form SC TO-I/A

September 18, 2009

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**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**Amendment No. 5**

**to**

**SCHEDULE TO**

**(Rule 14d-100)**

**Tender Offer Statement under Section 14(d)(1) or 13(e)(1)**

**of the Securities Exchange Act of 1934**

**Johnson Controls, Inc.**

*(Name of Subject Company (Issuer) and Filing Person (Offeror))*

**6.50% Convertible Senior Notes due 2012**

**Equity Units, in the form of Corporate Units, stated amount \$50.00 per unit**

*(Title of Class of Securities)*

**478366 AS6 and 478366 602**

*(CUSIP Number of Class of Securities)*

**Jerome D. Okarma, Esq.**

**Vice President, Secretary and General Counsel**

**Johnson Controls, Inc.**

**5757 N. Green Bay Avenue**

**Milwaukee, Wisconsin 53209-4408**

**(414) 524-1200**

*(Name, address and telephone number of person authorized to receive notices and communications on behalf of filing person)*

**Copies to:**

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(414) 271-2400**

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**CALCULATION OF FILING FEE**

**Transaction Valuation\***

**\$1,850,059,333**

**Amount of Filing Fee\*\***

**\$103,233**

\* Estimated solely for purpose of calculating the registration fee and based on (a) the product of (i) \$2,282.50, the average of the bid and ask

price of Johnson  
Control s 6.50%  
Convertible  
Notes due 2012  
(the Convertible  
Notes ) on  
August 18,  
2009, and  
(ii) the quotient  
of (x)  
\$402,500,000,  
the aggregate  
principal  
amount at  
maturity of  
Convertible  
Notes which are  
sought for  
exchange, and  
(y) \$1,000, plus  
(b) the product  
of (i) \$123.97,  
the average of  
the high and low  
price of Johnson  
Control s Equity  
Units, stated  
amount \$50.00  
in the form of  
Corporate Units  
(the Corporate  
Units ) on  
August 17,  
2009, and  
(ii) 8,550,000,  
the number of  
Corporate Units  
sought for  
exchange, less  
(c)  
\$128,590,417,  
the maximum  
aggregate  
amount of cash  
to be paid by  
Johnson  
Controls  
pursuant to the  
Exchange  
Offers,  
assuming that

the Exchange  
Offers are fully  
subscribed by  
holders of the  
Convertible  
Notes and  
Corporate Units  
(including  
payment of  
accrued interest  
on the  
Convertible  
Notes and cash  
distributions on  
the Corporate  
Units).

\*\* The amount of  
the filing fee  
calculated in  
accordance with  
Rule 0-11(a)(2)  
of the Securities  
Exchange Act  
of 1934, as  
amended, by  
multiplying  
.0000558 by the  
aggregate  
Transaction  
Valuation.

**☐ Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.**

Amount Previously Paid: \$103,233

Form or Registration No.: Form S-4

Filing Party: Johnson Controls, Inc.

Date Filed: August 20, 2009

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

**third-party tender offer subject to Rule 14d-1.**

**issuer tender offer subject to Rule 13e-4.**

**going-private transaction subject to Rule 13e-3.**

**amendment to Schedule 13D under Rule 13d-2.**

Check the following box if the filing is a final amendment reporting the results of the tender offer:

If applicable, check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

- Rule 13e-4(i) (Cross-Border Issuer Tender Offer)
  
  - Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)
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**SCHEDULE TO**

This Amendment No. 5 amends and supplements the Tender Offer Statement on Schedule TO filed by Johnson Controls, Inc., a Wisconsin corporation ( Johnson Controls or the Company ) with the Securities and Exchange Commission on August 20, 2009 (as previously amended and supplemented, the Schedule TO ), relating to (a) an offer (the Convertible Notes Exchange Offer ) by the Company to exchange any and all of its outstanding 6.50% Convertible Senior Notes due 2012 (the Convertible Notes ) for the following consideration per \$1,000 principal amount of Convertible Notes: (i) 89.3855 shares of the Company s common stock, (ii) a cash payment of \$120.00, and (iii) accrued and unpaid interest on the Convertible Notes to, but excluding, the settlement date, payable in cash, and (b) an offer (the Corporate Units Exchange Offer and collectively with the Convertible Notes Exchange Offer, the Exchange Offers ) by the Company to exchange up to 8,550,000 units, or 95%, of its outstanding Equity Units, stated amount \$50.00 per unit (the Equity Units ), in the form of Corporate Units (the Corporate Units ) comprised of a purchase contract obligating the holder to purchase from the Company shares of its common stock, and a 1/20, or 5.0%, undivided beneficial ownership interest in \$1,000 principal amount of the Company s 11.50% Subordinated Notes due 2042 (the Subordinated Notes ), for the following consideration per Corporate Unit: (i) 4.8579 shares of the Company s common stock, (ii) a cash payment of \$6.50 and (iii) a distribution consisting of the pro rata share of accrued and unpaid interest on the Subordinated Notes to, but excluding, the settlement date, payable in cash. The Company is not offering to exchange any Equity Units in the form of Treasury Units.

Each Exchange Offer commenced on August 20, 2009. The Convertible Notes Exchange Offer expired at 11:59 p.m., New York City Time, on September 17, 2009. The Corporate Units Exchange Offer shall expire at 5:00 p.m., New York City Time, on September 25, 2009, unless extended or earlier terminated by the Company. The Corporate Units Exchange Offer will be made upon the terms and subject to the conditions set forth in the prospectus dated September 17, 2009 (the Prospectus ), which forms a part of the Registration Statement on Form S-4 (Reg. No. 333-161456) filed with the Securities and Exchange Commission on August 20, 2009, as amended by Amendment No. 1 thereto filed on September 4, 2009 and Amendment No. 2 thereto filed on September 14, 2009 (the Registration Statement ), and in the related letter of transmittal, which are exhibits (a)(1)(i) and (a)(1)(ii) hereto.

The Schedule TO is hereby amended and supplemented by this Amendment No. 5 to the Schedule TO as follows:

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**Item 4. *Terms of the Transaction***

Item 4(a) of the Schedule TO is hereby amended and supplemented by adding the following:

The Convertible Notes Exchange Offer expired at 11:59 p.m., New York City Time, on September 17, 2009 (the Convertible Notes Expiration Date ). On September 18, 2009, the Company announced that \$400.4 million aggregate principal amount of Convertible Notes, representing approximately 99.5% of the outstanding Convertible Notes, were validly tendered in the Convertible Notes Exchange Offer and not withdrawn as of the Convertible Notes Expiration Date.

The full text of the Company's press release, relating to the announcement of the expiration and results of the Convertible Notes Exchange Offer, is Exhibit (a)(5)(iii) hereto and is incorporated herein by reference.

**Item 12. *Exhibits***

Item 12 of the Schedule TO is hereby amended by inserting the following:

| <b>Exhibit</b> | <b>Description</b>  |
|----------------|---|
| (a)(5)(iii)    | Press Release, dated September 18, 2009 (incorporated by reference to Exhibit 99.1 to Johnson Controls, Inc. Current Report on Form 8-K dated September 18, 2009) |



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**SIGNATURES**

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this amendment is true, complete and correct.

JOHNSON CONTROLS, INC.

Date: September 18, 2009

By: /s/ Frank A. Voltolina

Name: Frank A. Voltolina

Title: Vice President and Corporate Treasurer

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| <b>Exhibit</b> | <b>Description</b>  |
|----------------|---|
| (a)(1)(i)      | Prospectus, dated September 17, 2009 (incorporated by reference to Johnson Controls, Inc. filing on September 17, 2009, pursuant to Rule 424(b)(3) under the Securities Act of 1933)  |
| (a)(1)(ii)     | Form of Letter of Transmittal (incorporated by reference to Exhibit 99.1 to Johnson Controls, Inc. Registration Statement on Form S-4 (Reg. No. 333-161456) (the Registration Statement ))  |
| (a)(1)(iii)    | Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (incorporated by reference to Exhibit 99.2 to the Registration Statement)  |
| (a)(1)(iv)     | Form of Letter to Clients (incorporated by reference to Exhibit 99.3 to the Registration Statement)   |
| (a)(5)(i)      | Press Release, dated August 20, 2009 (incorporated by reference to Exhibit 99.1 to Johnson Controls, Inc. Current Report on Form 8-K dated August 20, 2009)   |
| (a)(5)(ii)     | Press Release, dated September 11, 2009 (incorporated by reference to Exhibit 99.1 to Johnson Controls, Inc. Current Report on Form 8-K dated September 11, 2009)   |
| (a)(5)(iii)    | Press Release, dated September 18, 2009 (incorporated by reference to Exhibit 99.1 to Johnson Controls, Inc. Current Report on Form 8-K dated September 18, 2009)   |
| (d)(i)         | Dealer Manager Agreement (incorporated by reference to Exhibit 1.1 to the Registration Statement).  |
| (d)(ii)        | Underwriting Agreement, dated as of March 10, 2009, by and among Johnson Controls, Inc. and J.P. Morgan Securities Inc., Citigroup Global Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and Barclays Capital Inc., as representatives of the several underwriters named therein (incorporated by reference to Exhibit 1.1 to Johnson Controls, Inc. Form 8-K dated March 10, 2009)(Commission File No. 1-5097).  |
| (d)(iii)       | Letter of agreement dated December 6, 1990 between Johnson Controls, Inc., LaSalle National Trust, N.A. and Fidelity Management Trust Company which replaces LaSalle National Trust, N.A. as Trustee of the Johnson Controls, Inc. Employee Stock Ownership Plan Trust with Fidelity Management Trust Company as Successor Trustee, effective January 1, 1991 (incorporated by reference to Exhibit 4.F to Johnson Controls, Inc. Annual Report on Form 10-K for the year ended September 30, 1991) (Commission File No. 1-5097). |
| (d)(iv)        | Senior Indenture, dated January 17, 2006, between Johnson Controls, Inc. and U.S. Bank National Association, as successor trustee to JPMorgan Chase Bank, National Association (incorporated by reference to Exhibit 4.2 to Johnson Controls, Inc. Registration Statement on Form S-3ASR)(Registration No. 333-157502).   |
| (d)(v)         | Supplemental Indenture, dated March 16, 2009, between Johnson Controls, Inc. and U.S. Bank National Association, as Trustee (incorporated by reference to Exhibit 4.1 to Johnson Controls, Inc. Form 8-K/A dated March 10, 2009)(Commission File No. 1-5097).   |
| (d)(vi)        |   |

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Underwriting Agreement, dated as of March 10, 2009, by and among Johnson Controls, Inc. and J.P. Morgan Securities Inc., Citigroup Global Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and Barclays Capital Inc., as representatives of the several underwriters named therein (incorporated by reference to Exhibit 1.2 to Johnson Controls, Inc. Form 8-K dated March 10, 2009)(Commission File No. 1-5097).

- (d)(vii) Subordinated Indenture, dated March 16, 2009, between Johnson Controls, Inc. and U.S. Bank National Association, as Trustee (incorporated by reference to Exhibit 4.2 to Johnson Controls, Inc. Form 8-K/A dated March 10, 2009) (Commission File No. 1-5097).
- (d)(viii) Supplemental Indenture No. 1, dated March 16, 2009, between Johnson Controls, Inc. and U.S. Bank National Association, as Trustee (incorporated by reference to Exhibit 4.3 to Johnson Controls, Inc. Form 8-K/A dated March 10, 2009) (Commission File No. 1-5097).

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| <b>Exhibit</b> | <b>Description</b>  |
|----------------|---|
| (d)(ix)        | Purchase Contract and Pledge Agreement, dated March 16, 2009, among Johnson Controls, Inc., U.S. Bank National Association, as Purchase Contract Agent, and U.S. Bank National Association, as Collateral Agent, Custodial Agent and Securities Intermediary (incorporated by reference to Exhibit 4.4 to Johnson Controls, Inc. Form 8-K/A dated March 10, 2009) (Commission File No. 1-5097). |
| (d)(x)         | Form of Remarketing Agreement among Johnson Controls, Inc., U.S. Bank National Corporation, as the Reset Agent and the Remarketing Agent and U.S. Bank National Corporation, as the Purchase Contract Agent (incorporated by reference to Exhibit 4.5 to Johnson Controls, Inc. Current Report on Form 8-K/A dated March 10, 2009) (Commission File No. 1-5097).                                |
| (d)(xi)        | Officer s Certificate, dated January 17, 2006, creating the 5.250% Fixed Rate Notes due 2011, the 5.500% Fixed Rate Notes due 2016 and the 6.000% Fixed Rate Notes due 2036 (incorporated by reference to Exhibit 4.2 to Johnson Controls, Inc. Form 8-K dated January 9, 2006) (Commission File No. 1-5097).   |
| (d)(xii)       | Johnson Controls, Inc. 1992 Stock Option Plan, amended and restated effective January 1, 2009 (incorporated by reference to Exhibit 10A to Johnson Controls, Inc. Annual Report on Form 10-K for the year ended September 30, 2008) (Commission File No. 1-5097).   |
| (d)(xiii)      | Johnson Controls, Inc. Common Stock Purchase Plan for Executives as amended November 17, 2004 and effective December 1, 2004 (incorporated by reference to Exhibit 10.B to Johnson Controls, Inc. Annual Report on Form 10-K for the year ended September 30, 2004) (Commission File No. 1-5097).   |
| (d)(xiv)       | Johnson Controls, Inc. Director Share Unit Plan, amended and restated effective January 1, 2008 (incorporated by reference to Exhibit 10.M to Johnson Controls, Inc. Annual Report on Form 10-K for the year ended September 30, 2007) (Commission File No. 1-5097).  |
| (d)(xv)        | Johnson Controls, Inc. 2000 Stock Option Plan, amended and restated effective January 1, 2009 (incorporated by reference to Exhibit 10N to Johnson Controls, Inc. Annual Report on Form 10-K for the year ended September 30, 2008) (Commission File No. 1-5097).   |
| (d)(xvi)       | Form of stock option award agreement for Johnson Controls, Inc. 2000 Stock Option Plan, as amended through October 1, 2001, as in use through March 20, 2006 (incorporated by reference to Exhibit 10.1 to Johnson Controls, Inc. Current Report on Form 8-K dated November 17, 2004) (Commission File No. 1-5097).   |
| (d)(xvii)      | Johnson Controls, Inc. 2001 Restricted Stock Plan, amended and restated effective January 1, 2008 (incorporated by reference to Exhibit 10.P to Johnson Controls, Inc. Annual Report on Form 10-K for the year ended September 30, 2007) (Commission File No. 1-5097).  |
| (d)(xviii)     | Form of restricted stock award agreement for Johnson Controls, Inc. 2001 Restricted Stock Plan, as amended and restated effective October 1, 2003, as in use through January 2004 (incorporated by reference to Exhibit 10.Q to Johnson Controls, Inc. Annual Report on Form 10-K for the year ended September 30, 2005) (Commission File No. 1-5097).  |
| (d)(xix)       | Form of restricted stock award agreement for Johnson Controls, Inc. 2001 Restricted Stock Plan, as amended March 21, 2006, as in effect since August 1, 2006 (incorporated by reference to Exhibit 10.R to  |

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Johnson Controls, Inc. Annual Report on Form 10-K for the year ended September 30, 2006)  
(Commission File No. 1-5097).

- (d)(xx) Johnson Controls, Inc. 2003 Stock Plan for Outside Directors, amended as of October 1, 2006  
(incorporated by reference to Exhibit 10.T to Johnson Controls, Inc. Annual Report on Form 10-K for the  
year ended September 30, 2006) (Commission File No. 1-5097).

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| <b>Exhibit</b> | <b>Description</b>  |
|----------------|---|
| (d)(xxi)       | Form of restricted stock award agreement for Johnson Controls, Inc. 2001 Restricted Stock Plan, for grants made on January 3, 2006 (incorporated by reference to Exhibit 10.BB to Johnson Controls, Inc. Annual Report on Form 10-K for the year ended September 30, 2006) (Commission File No. 1-5097).                        |
| (d)(xxii)      | Form of stock option award agreement for Johnson Controls, Inc. 2000 Stock Option Plan, as amended September 16, 2006, as in effect since October 2, 2006 (incorporated by reference to Exhibit 10.CC to Johnson Controls, Inc. Annual Report on Form 10-K for the year ended September 30, 2006) (Commission File No. 1-5097). |
| (d)(xxiii)     | Johnson Controls, Inc. 2007 Stock Option Plan, amended as of September 14, 2007 (incorporated by reference to Exhibit 10.CC to Johnson Controls, Inc. Annual Report on Form 10-K for the year ended September 30, 2007) (Commission File No. 1-5097).   |
| (d)(xxiv)      | Form of stock option award agreement for Johnson Controls, Inc. 2007 Stock Option Plan (incorporated by reference to Exhibit 10.1 to Johnson Controls, Inc. Current Report on Form 8-K dated March 21, 2007) (Commission File No. 1-5097).  |
| (h)            | Tax Opinion of Foley & Lardner LLP (incorporated by reference to Exhibit 8.1 to the Registration Statement).  |