

HILLSHIRE BRANDS CO

Filed by
TYSON FOODS INC

FORM SC TO-T/A

(Amended tender offer statement by Third Party)

Filed 08/27/14

Address	400 SOUTH JEFFERSON STREET CHICAGO, IL 60607
Telephone	3126146000
CIK	0000023666
Symbol	HSH
SIC Code	2015 - Poultry Slaughtering and Processing
Industry	Food Processing
Sector	Consumer/Non-Cyclical
Fiscal Year	06/30

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

**SCHEDULE TO
TENDER OFFER STATEMENT UNDER SECTION 14(D)(1)
OR 13(E)(1) OF THE SECURITIES EXCHANGE ACT OF 1934**

(Amendment No. 8)

THE HILLSHIRE BRANDS COMPANY

(Name of Subject Company (Issuer))

**HMB HOLDINGS, INC.
TYSON FOODS, INC.**

(Names of Filing Persons (Offeror))

COMMON STOCK, PAR VALUE \$0.01 PER SHARE

(Title of Class of Securities)

432589109

(Cusip Number of Class of Securities)

**David L. Van Bebber
Executive Vice President and General Counsel
Tyson Foods, Inc.
2200 Don Tyson Parkway
Springdale, Arkansas 72762-6999
(479) 290-4000**

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications on Behalf of Filing Persons)

Copies to:
**George R. Bason, Jr.
Marc O. Williams
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000**

CALCULATION OF FILING FEE

Transaction Valuation*

\$8,080,786,746

Amount of Filing Fee**

\$1,040,805

* Estimated solely for the purposes of calculating the filing fee. The transaction value was determined by adding (i) the product of (a) 124,491,419, the number of issued and outstanding shares of The Hillshire Brands Company ("Hillshire Brands") common stock, and (b) \$63.00, the tender offer price, (ii) the product of (a) 3,525,971, the number of shares of Hillshire Brands common stock subject to issuance pursuant to outstanding options to purchase shares of Hillshire Brands common stock with an exercise price less than the tender offer price and (b) \$37.22, the difference between the tender offer price and the average weighted exercise price of such options, (iii) the product of (a) 1,574,125, the number of shares of Hillshire Brands common stock subject to issuance upon settlement of outstanding restricted stock units granted under Hillshire Brands equity compensation plans (assuming continued employment or service, as applicable, through consummation of the transaction and achievement at specified target or, if calculable, actual performance levels immediately prior to consummation of the transaction, as applicable) and (b) \$63.00, the tender offer price and (iv) the product of (a) 117,791, the number of shares of Hillshire Brands common stock subject to issuance upon settlement of deferred compensation equity awards under the Hillshire Brands deferred compensation plans and (b) \$63.00, the tender offer price. The foregoing figures have been provided by the issuer to the offerors and are as of July 9, 2014, the most recent practicable date.

** The filing fee was calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended, and Fee Rate Advisory No. 1 for Fiscal Year 2014, issued August 30, 2013, by multiplying the transaction value by 0.00012880.

Check 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: \$1,040,805.
Form or Registration No.: SC TO-T.

Filing Party: HMB Holdings, Inc.
Date Filed: July 16, 2014

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.

This Amendment No. 8 (this “**Amendment**”) amends and supplements the Tender Offer Statement on Schedule TO filed by Tyson Foods, Inc., a Delaware corporation (“**Tyson**”), and HMB Holdings, Inc., a Maryland corporation and a wholly owned subsidiary of Tyson (“**Purchaser**”), with the Securities and Exchange Commission on July 16, 2014 (as previously amended and together with any subsequent amendments and supplements thereto, the “**Schedule TO**”). The Schedule TO relates to the offer by Purchaser to purchase all outstanding shares of common stock, par value \$0.01 per share, of The Hillshire Brands Company, a Maryland corporation (“**Hillshire Brands**”), for \$63.00 per share, in cash, without interest, subject to any withholding of taxes required by applicable law and upon the terms and subject to the conditions set forth in the Offer to Purchase dated July 16, 2014 (the “**Offer to Purchase**”) and the related Letter of Transmittal, copies of which are attached as Exhibits (a)(1)(i) and (a)(1)(ii), respectively, to the Schedule TO.

Except as otherwise set forth in this Amendment, the information set forth in the Schedule TO remains unchanged and is incorporated herein by reference to the extent relevant to the items in this Amendment. Capitalized terms used but not defined herein have the meanings ascribed to them in the Schedule TO.

Items 1 through 9, and Item 11 .

Items 1 through 9 and Item 11 of the Schedule TO are hereby amended and supplemented as follows:

The second, third and fourth paragraphs in the subsection titled “U.S. Antitrust” of Section 16 of the Offer to Purchase (“Certain Legal Matters; Regulatory Approvals”) are hereby amended and restated as follows:

“We filed a Premerger Notification and Report Form under the HSR Act with respect to the Offer with the Antitrust Division and the FTC on July 28, 2014. On August 12, 2014, Tyson received from the Antitrust Division a Request for Additional Information and Documentary Material (a “**Second Request**”) under the HSR Act with respect to the Offer and the Merger. Hillshire Brands has informed Tyson that it also received a Second Request on August 12, 2014. As a result of the Second Requests, the waiting period under the HSR Act applicable to the purchase of the Shares in the Offer was extended until 11:59 p.m., New York City time on the 10th calendar day following the date of Tyson’s substantial compliance with its Second Request or the earlier termination of such waiting period.

On August 27, 2014, in connection with the Offer, Tyson, Hillshire Brands and the Antitrust Division entered into a Hold Separate Stipulation and Order (the “**Hold Separate**”) and agreed to comply with the terms of a proposed Final Judgment (the “**Proposed Final Judgment**”) and to the entry thereof by the United States District Court for the District of Columbia (the “**D.C. District Court**”), subject to approval by the D.C. District Court under the traditional procedures set forth in the Antitrust Procedures and Penalties Act.

Following the entry of the Hold Separate by the D.C. District Court, Tyson expects that the Pre-Merger Notification Office at the FTC will grant termination of the waiting period under the HSR Act. As a result of such termination, the applicable condition to the Offer with respect to expiration or termination of the waiting period under the HSR Act would be satisfied, but the Offer would remain subject to the other conditions set forth in the Offer to Purchase.”

On August 27, 2014, Tyson and Hillshire Brands issued a joint press release announcing the agreement with the Antitrust Division and the expected termination of the applicable waiting period under the HSR Act.

The full text of the press release is attached as Exhibit (a)(5)(xxix) to the Schedule TO and is incorporated herein by reference.

Item 12. Exhibits .

Item 12 of the Schedule TO is hereby amended and supplemented by adding the following exhibits:

(a)(5)(xxix) Joint Press Release issued by Tyson Foods, Inc. and The Hillshire Brands Company dated August 27, 2014.

SIGNATURES

After due inquiry and to the best knowledge and belief of the undersigned, each of the undersigned certify that the information set forth in this statement is true, complete and correct.

Date: August 27, 2014

HMB Holdings, Inc.

By: /s/ R. Read Hudson

Name: R. Read Hudson

Title: Vice President and Secretary

Tyson Foods, Inc.

By: /s/ R. Read Hudson

Name: R. Read Hudson

Title: Vice President, Associate General
Counsel and Secretary

EXHIBIT INDEX

Exhibit No.	Description
(a)(1)(i)	Offer to Purchase dated July 16, 2014.*
(a)(1)(ii)	Letter of Transmittal (including IRS Form W-9).*
(a)(1)(iii)	Notice of Guaranteed Delivery.*
(a)(1)(iv)	Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.*
(a)(1)(v)	Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.*
(a)(1)(vi)	Summary Advertisement dated July 16, 2014.*
(a)(5)(i)	Press Release issued by Tyson Foods, Inc. dated June 9, 2014.*
(a)(5)(ii)	Investor Presentation of Tyson Foods, Inc. dated June 9, 2014.*
(a)(5)(iii)	Internal Announcement of Tyson Foods, Inc. dated June 9, 2014.*
(a)(5)(iv)	Transcript of Investor Conference Call of Tyson Foods, Inc. held on June 9, 2014.*
(a)(5)(v)	Press Release issued by Tyson Foods, Inc. dated June 16, 2014.*
(a)(5)(vi)	Internal Announcement of Tyson Foods, Inc. dated June 30, 2014.*
(a)(5)(vii)	Joint Press Release issued by Tyson Foods, Inc. and The Hillshire Brands Company dated July 2, 2014.*
(a)(5)(viii)	Internal Announcement of Tyson Foods, Inc. dated July 2, 2014.*
(a)(5)(ix)	Letter to Hillshire Brands Employees issued by Tyson Foods, Inc. dated July 2, 2014.*
(a)(5)(x)	Notice of Merger issued by HMB Holdings, Inc. on July 12, 2014.*
(a)(5)(xi)	Press Release issued by Tyson Foods, Inc. dated July 16, 2014.*
(a)(5)(xii)	Letter to Tyson employees from Donnie Smith, President and CEO of Tyson, dated July 16, 2014.*
(a)(5)(xiii)	The information set forth in Item 1.01 of Tyson's Current Report on Form 8-K filed on July 17, 2014.*
(a)(5)(xiv)	Preliminary Prospectus Supplement, dated July 28, 2014, offering Common Shares of the Class A Common Stock of Tyson Foods, Inc. (incorporated herein by reference to the Preliminary Prospectus Supplement filed by Tyson Foods, Inc. pursuant to Rule 424(b)(5) on July 28, 2014).*
(a)(5)(xv)	Preliminary Prospectus Supplement, dated July 28, 2014, offering Tangible Equity Units of Tyson Foods, Inc. (incorporated herein by reference to the Preliminary Prospectus Supplement filed by Tyson Foods, Inc. pursuant to Rule 424(b)(5) on July 28, 2014).*
(a)(5)(xvi)	Investor Presentation of Tyson Foods, Inc. dated July 28, 2014.*
(a)(5)(xvii)	Press Release issued by Tyson Foods, Inc. dated July 28, 2014.*
(a)(5)(xviii)	Prospectus Supplement, dated July 30, 2014, offering up to 23,381,500 Shares of the Class A Common Stock of Tyson Foods, Inc. (incorporated herein by reference to the Prospectus Supplement filed by Tyson Foods, Inc. pursuant to Rule 424(b)(5) on July 31, 2014).
(a)(5)(xix)	Prospectus Supplement, dated July 30, 2014, offering 30,000,000 4.75% Tangible Equity Units of Tyson Foods, Inc. (incorporated herein by reference to the Prospectus Supplement filed by Tyson Foods, Inc. pursuant to Rule 424(b)(5) on July 31, 2014).
(a)(5)(xx)	Press Release issued by Tyson Foods, Inc. dated July 30, 2014.*
(a)(5)(xxi)	Preliminary Prospectus Supplement, dated August 5, 2014, offering four series of Senior Notes of Tyson Foods, Inc. (incorporated herein by reference to the Preliminary Prospectus Supplement filed by Tyson Foods, Inc. pursuant to Rule 424(b)(5) on August 5, 2014).*
(a)(5)(xxii)	Investor Presentation of Tyson Foods, Inc. dated August 5, 2014.*
(a)(5)(xxiii)	Press Release issued by Tyson Foods, Inc. dated August 5, 2014.*
(a)(5)(xxiv)	Press Release issued by Tyson Foods, Inc. dated August 5, 2014.*
(a)(5)(xxv)	Prospectus Supplement, dated August 5, 2014, offering four series of Senior Notes of Tyson Foods, Inc. (incorporated herein by reference to the Prospectus Supplement filed by Tyson Foods, Inc. pursuant to Rule 424(b)(5) on August 6, 2014).*
(a)(5)(xxvi)	Joint Press Release issued by Tyson Foods, Inc. and The Hillshire Brands Company dated August 12, 2014.*
(a)(5)(xxvii)	Joint Press Release issued by Tyson Foods, Inc. and The Hillshire Brands Company dated August 19, 2014.*

- (a)(5)(xxviii) Joint Press Release issued by Tyson Foods, Inc. and The Hillshire Brands Company dated August 26, 2014.*
- (a)(5)(xxix) Joint Press Release issued by Tyson Foods, Inc. and The Hillshire Brands Company dated August 27, 2014.
- (b)(1) Second amended and restated commitment letter entered into as of June 9, 2014, among Tyson Foods, Inc., Morgan Stanley Senior Funding, Inc. and JPMorgan Chase Bank, N.A.*
- (b)(2) Amendment No. 1 to Credit Agreement, dated as of June 27, 2014, among Tyson Foods, Inc., the lenders thereto and JPMorgan Chase Bank, N.A.*

<u>Exhibit No.</u>	<u>Description</u>
(b)(3)	Commitment Letter entered into as of June 17, 2014 among Tyson Foods, Inc., Morgan Stanley Senior Funding, Inc., J.P. Morgan Securities LLC and JPMorgan Chase Bank, N.A.*
(b)(4)	364-Day Bridge Term Loan Agreement, dated as of July 15, 2014, among Tyson Foods, Inc., the lenders party thereto and Morgan Stanley Senior Funding, Inc., as administrative agent.*
(b)(5)	Term Loan Agreement, dated as of July 15, 2014, among Tyson Foods, Inc., the lenders party thereto and Morgan Stanley Senior Funding, Inc., as administrative agent.*
(c)	Not applicable.
(d)(1)	Agreement and Plan of Merger, dated as of July 1, 2014, among Tyson Foods, Inc., HMB Holdings, Inc. and The Hillshire Brands Company.*
(e)	Not applicable.
(f)	Not applicable.
(g)	Not applicable.
(h)	Not applicable.

* Previously filed.



Tyson and Hillshire Brands Reach Agreement with Department of Justice

SPRINGDALE, Ark. and CHICAGO, Ill., August 27, 2014 – Tyson Foods, Inc. (NYSE: TSN) (“Tyson”) and The Hillshire Brands Company (NYSE: HSH) (“Hillshire Brands”) today announced that, in connection with the review of Tyson’s proposed acquisition of Hillshire Brands by the Antitrust Division of the U.S. Department of Justice (“DOJ”), Tyson and Hillshire Brands have agreed with the DOJ upon a proposed settlement which has been filed today in the U.S. District Court for the District of Columbia. The settlement is subject to approval by the court under the traditional procedures set forth in the Antitrust Procedures and Penalties Act.

Tyson expects that it will shortly receive termination of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (“HSR Act”). At that point, the applicable condition to Tyson’s previously announced tender offer to purchase all of the outstanding shares of common stock of Hillshire Brands for \$63.00 per share in cash subject to the conditions set forth in the Offer to Purchase dated July 16, 2014 (the “Offer”) with respect to expiration or termination of the waiting period under the HSR Act will be satisfied.

The Offer is scheduled to expire at 12:00 midnight, New York City time, at the end of Wednesday, August 27, 2014, unless it is extended further under the circumstances set forth in the Merger Agreement.

Contacts

FOR TYSON FOODS

Investors: Jon Kathol, 479-290-4235, jon.kathol@tyson.com News

Media: Gary Mickelson, 479-290-6111, gary.mickelson@tyson.com

FOR HILLSHIRE BRANDS

Investors: Melissa Napier, 312-614-8739

News Media: Mike Cummins, 312-614-8412

About Tyson Foods

Tyson Foods, Inc., with headquarters in Springdale, Arkansas, is one of the world's largest processors and marketers of chicken, beef and pork, the second-largest food production company in the Fortune 500 and a member of the S&P 500. The company was founded in 1935 by John W. Tyson, whose family has continued to be involved with son Don Tyson leading the company for many years and grandson, John H. Tyson, serving as the current chairman of the board of directors. Tyson Foods, Inc. produces a wide variety of protein-based and prepared food products and is the recognized market leader in the retail and foodservice markets it serves. The company provides products and services to customers throughout the United States and approximately 130 countries. It has approximately 115,000 Team Members employed at more than 400 facilities and offices in the United States and around the world. Through its Core Values, Code of Conduct and Team Member Bill of Rights, the company strives to operate with integrity and trust and is committed to creating value for its shareholders, customers and Team Members. The company also strives to be faith-friendly, provide a safe work environment and serve as stewards of the animals, land and environment entrusted to it.

About Hillshire Brands

The Hillshire Brands Company (NYSE: HSH) is a leader in branded, convenient foods. The company generated approximately \$4 billion in annual sales in fiscal 2013, has more than 9,000 employees, and is based in Chicago. Hillshire Brands' portfolio includes iconic brands such as Jimmy Dean, Ball Park, Hillshire Farm, State Fair, Van's, Sara Lee frozen bakery and Chef Pierre pies as well as artisanal brands Aidells, Gallo Salame and Golden Island premium jerky. For more information on the company, please visit www.hillshirebrands.com.

Forward-Looking Statements

This press release contains certain forward-looking statements with respect to certain plans and objectives of Tyson and Hillshire Brands with respect to the proposed acquisition of Hillshire Brands by Tyson, the Offer and the related merger, including the timing of the completion of the Offer and the merger, under the Merger Agreement. These forward-looking statements can be identified by the fact that they do not relate only to historical or current facts. By their nature, forward-looking statements involve known and unknown risks and uncertainties because they relate to events and depend on circumstances that will occur in the future. There are several factors which could cause actual plans to differ materially from those expressed or implied in forward-looking statements. Such factors include, but are not limited to, the risk that the acquisition of Hillshire Brands and the Offer and the merger may not be consummated in a timely manner as a result of pending regulatory approval under the HSR Act. Neither Tyson nor Hillshire Brands assumes any obligation to update the information contained in this press release (whether as a result of new information, future events or otherwise), except as required by applicable law.

Important Information for Investors and Security Holders

This press release is not an offer to buy or the solicitation of an offer to sell any securities of Hillshire Brands. A solicitation and an offer to buy shares of Hillshire Brands common stock is being made pursuant to a Tender Offer Statement (including an offer to purchase, a related letter of transmittal and other offer documents) that HMB Holdings, Inc., a wholly owned subsidiary of Tyson, has filed with the SEC. Hillshire Brands has also filed a Solicitation/Recommendation Statement on Schedule 14D-9 with respect to the tender offer. Investors and stockholders are urged to read the Tender Offer Statement (including an offer to purchase, a related letter of transmittal and other offer documents) and the Solicitation/Recommendation Statement on Schedule 14D-9, as well as other documents filed with the SEC, because they contain important information. The Tender Offer Statement and Solicitation/Recommendation Statement on Schedule 14D-9 have been sent free of charge to Hillshire Brands stockholders and these and other materials filed with the SEC may also be obtained from Hillshire Brands upon written request to the Investor Relations Department, 400 South Jefferson Street, Chicago, Illinois 60607, telephone number (312) 614-8100 or from Hillshire Brands' website, <http://investors.hillshirebrands.com>. In addition, all of these materials (and all other documents filed with the SEC) will be available at no charge from the SEC through its website at www.sec.gov, or by directing requests for such materials to MacKenzie Partners, Inc., the Information Agent for the offer, at (800) 322-2885 (please call (212) 929-5500 (collect) if you are located outside the U.S.).