

SMART & FINAL INC/DE
Form 8-K/A
April 27, 2007

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K/A
(Amendment No.1)

CURRENT REPORT

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

Date of Report (Date of earliest event reported)

April 27, 2007

SMART & FINAL INC.

(Exact name of registrant as specified in its charter)

Delaware
(State of incorporation)

001-10811
(Commission File Number)

95-4079584
(IRS Employer

Identification No.)

600 Citadel Drive

City of Commerce, California
(Address of principal executive offices)

(323) 869-7500

90040
(Zip Code)

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(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01. Entry Into a Material Definitive Agreement.

Smart & Final Inc., a Delaware Corporation (Smart & Final), hereby amends Item 1.01 to its Current Report on Form 8-K, as filed with the Securities and Exchange Commission on February 20, 2007 (the Form 8-K), by deleting the last paragraph under Item 1.01 in the Form 8-K in its entirety and replacing it with the following:

The foregoing descriptions of the Merger Agreement and Stock Purchase Agreement are only summaries, do not purport to be complete and are qualified in their entirety by reference to the Merger Agreement and Stock Purchase Agreement. The Merger Agreement and Stock Purchase Agreement are attached as Exhibit 2.1 and Exhibit 99.1 hereto, respectively, and are each incorporated herein by reference. The Merger Agreement and Stock Purchase Agreement have been attached to provide investors with information regarding their terms. The assertions embodied in the representations and warranties contained in the Merger Agreement and the Stock Purchase Agreement are qualified by information in confidential disclosure schedules provided by the parties in connection with the execution of the Merger Agreement and Stock Purchase Agreement. These disclosure schedules contain information that modifies, qualifies and creates exceptions to the representations and warranties set forth in the Merger Agreement and Stock Purchase Agreement. Moreover, certain representations and warranties in the Merger Agreement and Stock Purchase Agreement were used for the purpose of allocating risk between the parties rather than establishing matters as facts.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

SMART & FINAL INC.

By: /s/ Richard N. Phegley
Name: Richard N. Phegley
Title: Senior Vice President and Chief
Financial Officer

Date: April 27, 2007

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(2) a written undertaking, executed personally or on the applicant's behalf: to repay the advance if it is ultimately determined that the applicant did not meet such standard of conduct.

b. The undertaking required by Section 7(a)(2) of this Article shall be an unlimited general obligation of the applicant but need not be secured and may be accepted without reference to financial ability to make repayment.

c. Authorizations of payments under this Section shall be made by the persons specified in Section 6 of this Article.

8. The Board of Directors is hereby empowered, by majority vote of a quorum consisting of disinterested directors, to cause the Corporation to indemnify or contract to indemnify any person not specified in Section 2 or 3 of this Article who was, is or may become a party to any proceeding, by reason of the fact that the person is or was an employee or agent of the Corporation, is or was serving at the request of the Corporation a director, officer, employee or agent of another corporation, partnership, joint venture, employee benefit plan or other enterprise, to the same extent as if that person were specified as one to whom indemnification is granted in Section 3. The provisions of Sections 4 through 7 of this Article shall be applicable to any indemnification provided hereafter pursuant to this Section 8.

9. The Corporation may purchase and maintain insurance to indemnify it against the whole or any portion of the liability assumed by it accordance with this Article and may also procure insurance, in such amounts as the Board of Directors may determine, on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against any liability asserted against or incurred in any such capacity or arising from the person's status as such, whether or not the Corporation would have power to indemnify that person against such liability under the provisions of this Article.

10. Every reference herein to directors, officers, employees or agents shall include former directors, officers, employees and agents and their respective heirs, executors and administrators. The indemnification hereby provided and provided hereafter pursuant to the power hereby conferred by this Article on the Board of Directors shall not be exclusive of any other rights to which any other person may be entitled, including any right under policies of insurance that may be purchased and maintained by the Corporation or others, with respect to claims, issues or matters in relation to which the Corporation would not have the power to indemnify that person under the provisions of this Article. Such rights shall not prevent or restrict the power of the Corporation to make or provide for any future indemnity, or provisions for determining entitlement to indemnity, pursuant to one or more indemnification agreements, bylaws, or other arrangements (including, without limitation, creation of trust funds or security interests funded by letters of credit or other means) approved by the Board of Directors (whether or not any of the directors of the Corporation shall be a party to or beneficiary of any such agreements, bylaws or arrangements); provided, however, that any provision of such agreements, bylaws or other arrangements shall not be effective if and to the extent that it is determined to be contrary to this Article or applicable laws of the Commonwealth of Virginia.

11. Each provision of this Article shall be severable, and an adverse determination as to any such provision shall in no way affect the validity of any other provision.

ARTICLE VII

Voting

1. Unless these Articles of Incorporation provide otherwise or the Board of Directors conditions its submission of a particular matter on receipt of a greater vote or on any other basis permitted by applicable law, the vote of the holders of a majority of the outstanding shares of any series or class of stock voting as such series or class, or any series and/or classes of stock voting together as a voting group, entitled to vote on the following matters required by applicable law to be submitted to such series, classes or voting group shall be required and sufficient for the adoption or approval thereof by such series, classes or voting group: (i) any amendment or restatement of the Articles of Incorporation of the Corporation, (ii) a plan of merger, (iii) a plan of share exchange, (iv) the sale, lease or exchange or other disposition of all or substantially all of the property of the Corporation other than in the usual and regular

course of business, or (v) a proposal to dissolve the Corporation. The foregoing provisions of this Article VII shall not be construed to alter or modify in any respect the voting requirements prescribed by the Virginia Stock Corporation Act which would in the absence of such provisions be applicable to the approval of any affiliated transaction (as defined in said Act) or any amendment of the Articles of Incorporation relating to the vote required for such approval.

2. On matters presented to the shareholders other than those set forth in Section 1 of Article VII, the vote of the holders of a majority of the outstanding shares of any series or class of stock voting as such series or class, or any series and/or classes of stock voting together as a voting group, entitled to vote on such matter at a shareholder meeting for which a quorum of such series, class or voting group is present, shall be required and sufficient for the adoption or approval of such matters by such series, classes or voting groups. For purposes of this Section 2 of Article VII, a quorum shall consist of one-third (1/3) of the outstanding shares of capital stock in such series, class or voting group.

ARTICLE VIII

Amendment of Bylaws

Except as otherwise provided in the bylaws, the shareholders and the Board of Directors shall each have the power to make, amend or repeal bylaws of the Corporation by a majority vote.

ARTICLE IX

Exemption from Virginia Control Share Acquisitions Act

The Corporation elects, pursuant to Virginia Code Annotated Section 13.1-728.2, to be exempt from the requirements of the Virginia Control Share Acquisitions Act (Va. Code Ann. §§ 13.1-728.1, et seq.).

Dated: _____, 2018

Exhibit A: Sample of the Proxy Card

