

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

FORM S-8
REGISTRATION STATEMENT
Under
The Securities Act of 1933

TREEHOUSE FOODS, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

20-2311383

(I.R.S. Employer
Identification No.)

2021 Spring Road, Suite 600

Oak Brook, Illinois

(Address of Principal Executive Offices)

60523

(Zip Code)

TreeHouse Foods, Inc. Equity and Incentive Plan

(Full title of the plan)

Thomas E. O'Neill, Esq.

Executive Vice President, General Counsel & Chief Administrative Officer

TreeHouse Foods, Inc.

2021 Spring Road, Suite 600

Oak Brook, Illinois 60523

(Name and address of agent for service)

(708) 483-1300

(Telephone number, including area code, of agent for service)

With a copy to:

Bruce A. Toth, Esq.

Christina T. Roupas, Esq.

Winston & Strawn LLP

35 West Wacker Drive

Chicago, Illinois 60601

(312) 558-5600

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

| Title of securities to be registered (1)(2) | Amount to be registered (1) | Proposed maximum offering price per share (2) | Proposed maximum aggregate offering price (2) | Amount of registration fee (2) |
|--|--|--|--|---|
| Common Stock, \$0.01 par value | 3,800,000 | \$41.21 | \$156,598,000.00 | \$19,496.45 |

(1) In accordance with Rule 416(a) under the Securities Act of 1933, as amended, this registration statement shall be deemed to cover any additional shares of common stock, par value \$0.01 per share that may be issued pursuant to the TreeHouse Foods, Inc. Equity and Incentive Plan to prevent dilution from stock splits, stock dividends or similar transactions.

(2) Estimated solely for the purposes of calculating the registration fee pursuant to Rule 457(h) and 457(c) under the Securities Act of 1933, as amended, on the basis of the average high and low sale prices reported for shares of the Registrant's common stock on the New York Stock Exchange on March 16, 2018.

EXPLANATORY NOTE

Pursuant to General Instruction E of Form S-8, this Registration Statement on Form S-8 is being filed in order to register an additional 3,800,000 shares of the common stock of TreeHouse Foods, Inc., a Delaware corporation (the “Registrant”), that may be awarded under the Registrant’s Equity and Incentive Plan (f/k/a the TreeHouse Foods, Inc. 2005 Long-Term Stock Incentive Plan), as amended (the “Plan”), par value \$0.01 per share, which are securities of the same class and relate to the same employee benefit plan as those shares registered on the Registrant’s registration statements on Form S-8 previously filed with the Securities and Exchange Commission (the “Commission”) on June 28, 2005 (Registration No. 333-126161), April 2, 2008 (Registration No. 333-150053), August 15, 2012 (Registration No. 333-183321) and August 6, 2015 (Registration No. 333-206161), which are hereby incorporated by reference.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The Commission allows us to incorporate by reference the information we file with the Commission, which means that we can disclose important information to you by referring you to those documents. The information that we incorporate by reference is considered to be part of this Registration Statement.

Information that we file later with the Commission will automatically update and supersede this information. This means that you must look at all of the Commission filings that we incorporate by reference to determine if any of the statements in this Registration Statement or in any documents previously incorporated by reference have been modified or superseded. We incorporate by reference into this Registration Statement the following documents:

- (a) Annual Report on Form 10-K for the year ended December 31, 2017 filed on February 20, 2018.
- (b) Definitive Proxy Statement on Schedule 14A filed March 5, 2018.
- (c) Current Reports on Form 8-K filed with the Commission on January 20, 2016, February 15, 2018 (except with respect to Item 2.02), February 21, 2018, February 22, 2018 and March 5, 2018.
- (d) The description of our common stock contained in our Registration Statement on Form 10 filed pursuant to Section 12(b) of the Exchange Act.
- (e) All documents filed by us under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus and before all of the securities offered by this prospectus are sold.

Nothing in this Registration Statement shall be deemed to incorporate information furnished but not filed with the Commission, unless we expressly provide otherwise.

Item 8. Exhibits.

The following documents are filed as exhibits to this Registration Statement:

| Exhibit No. | Description |
|----------------|--|
| 3.1 | <u>Amended and Restated Certificate of Incorporation of TreeHouse Foods, Inc., as amended on April 28, 2011 (incorporated by reference to Exhibit 3.1 to the Registrant’s Annual Report on Form 10-K filed with the Commission on April 28, 2011).</u> |
| 3.2 | <u>Amended and Restated By-Laws of TreeHouse Foods, Inc., as amended on April 28, 2011 (incorporated by reference to Exhibit 3.1 to the Registrant’s Annual Report on Form 10-K filed with the Commission on April 28, 2011).</u> |

4.1 [TreeHouse Foods, Inc. Equity and Incentive Plan, as amended and restated effective February 14, 2017 \(incorporated by reference to Appendix A to the Registrant's Definitive Proxy Statement on Schedule 14A filed with the Commission on March 2, 2017\).](#)

5.1 [Opinion of Winston & Strawn LLP.](#)

23.1 [Consent of Deloitte & Touche LLP.](#)

23.2 [Consent of Winston & Strawn LLP \(included in Exhibit 5.1\).](#)

23.3 [Consent of KPMG LLP.](#)

24.1 [Powers of attorney \(included on the signature pages hereto\).](#)

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, 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 Oak Brook, State of Illinois, on March 23, 2018.

TREEHOUSE FOODS, INC.

/s/ Thomas E. O'Neill

By: Thomas E. O'Neill

Its: Executive Vice President, General Counsel & Chief
Administrative Officer

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Sam K. Reed and Thomas E. O'Neill and each of them (with full power to each of them to act alone), his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any or all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all said attorneys-in-fact and agents, or any of them, or their substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed below by the following persons in the capacities and on the dates indicated.

| Signature | Title | Date |
|---|---|----------------|
| <u>/s/ Sam K. Reed</u> Sam K. Reed | Chief Executive Officer and Chairman of the Board (Principal Executive Officer) | March 23, 2018 |
| <u>/s/ Matthew J. Foulston</u> Matthew J. Foulston | Executive Vice President and Chief Financial Officer (Principal Financial Officer and Accounting Officer) | March 23, 2018 |
| <u>/s/ George V. Bayly</u> George V. Bayly | Director | March 23, 2018 |
| <u>/s/ Linda K. Massman</u> Linda K. Massman | Director | March 23, 2018 |
| <u>/s/ Dennis F. O'Brien</u> Dennis F. O'Brien | Director | March 23, 2018 |
| <u>/s/ Frank J. O'Connell</u> Frank J. O'Connell | Director | March 23, 2018 |
| <u>/s/ Steven Oakland</u> Steven Oakland | Director | March 23, 2018 |
| <u>/s/ Matthew E. Rubel</u> Matthew E. Rubel | Director | March 23, 2018 |
| <u>/s/ Ann M. Sardini</u> Ann M. Sardini | Director | March 23, 2018 |

/s/ Gary D. Smith

Gary D. Smith

Director

March 23, 2018

/s/ David B. Vermylen

David B. Vermylen

Director

March 23, 2018



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March 23, 2018

TreeHouse Foods, Inc.
2021 Spring Road, Suite 600
Oak Brook, Illinois 60523

Re: Registration Statement on Form S-8 of TreeHouse Foods, Inc. (the “Registration Statement”)

Ladies and Gentlemen:

We have acted as special counsel for TreeHouse Foods, Inc., a Delaware corporation (the “Company”), in connection with the registration on Form S-8 of the offer and sale of up to 3,800,000 shares (the “Shares”) of the Company’s Common Stock, par value \$.01 per share (“Common Stock”), issuable pursuant to the grant of certain restricted stock unit and other awards or upon exercise of certain stock options or stock appreciation rights (collectively, the “Plan Awards”) that may be issued pursuant to the TreeHouse Foods, Inc. Equity and Incentive Plan (formerly known as the TreeHouse Foods, Inc. 2005 Long-Term Stock Incentive Plan), as amended (the “Plan”).

This opinion letter is delivered in accordance with the requirements of Item 601(b)(5) of Regulation S-K promulgated under the Securities Act of 1933, as amended (the “Act”).

In connection with this opinion, we have examined and are familiar with originals or copies, certified or otherwise identified to our satisfaction, of: (i) the Registration Statement, as filed with the Securities and Exchange Commission (the “Commission”) under the Act; (ii) the Amended and Restated Certificate of Incorporation of the Company, as currently in effect; (iii) the Amended and Restated By-Laws of the Company, as currently in effect; (iv) the Plan; (v) resolutions of the Board of Directors of the Company relating to, among other things, the reservation and issuance of the Common Stock, the filing of the Registration Statement and the approval of the Plan; and (vi) a certificate of the inspector of elections certifying as to approval of the Plan by the Company’s stockholders at the 2017 annual meeting of stockholders. We have also examined such other documents as we have deemed necessary or appropriate as a basis for the opinion set forth below.

In our examination, we have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to us as certified or photostatic copies and the authenticity of the originals of such latter documents. We have also assumed that the Company’s Board of Directors, or a duly authorized committee thereof, will have approved the issuance of each Plan Award prior to the issuance thereof. As to any facts material to this opinion which we did not independently establish or verify, we have relied upon oral or written statements and representations of officers and other representatives of the Company and others.

Based upon and subject to the foregoing, we are of the opinion that the Shares have been duly authorized by the requisite corporate action on the part of the Company and, when issued, paid for and delivered pursuant to the terms and in the manner set forth in the Plan, and assuming that the Shares remain duly reserved for issuance within the limits of the Common Stock then remaining authorized but unissued, will be validly issued, fully paid and nonassessable.

The foregoing opinion is limited to the General Corporation Law of the State of Delaware (including the applicable provisions of the Delaware Constitution and reported judicial decisions interpreting these laws). We express no opinion herein as to any other laws, statutes, regulations or ordinances. This opinion is given as of the date hereof and we assume no obligation to update or supplement such opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes that may hereafter occur. This opinion letter is being furnished solely for the Company’s benefit in connection with the offer, sale and issuance of the Shares and is not to be used, quoted or otherwise referred to for any other purpose without our prior written consent.

We hereby consent to the filing of this opinion with the Commission as an exhibit to the Registration Statement. In giving such consent, we do not concede that we are experts within the meaning of the Act or the rules and regulations thereunder or that this consent is required by Section 7 of the Act or the rules and regulations of the Commission.

Very truly yours,

/s/ Winston & Strawn LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our reports dated February 20, 2018, relating to the financial statements and financial statement schedule of TreeHouse Foods, Inc. and subsidiaries, and the effectiveness of TreeHouse Foods, Inc. and subsidiaries' internal control over financial reporting, appearing in the Annual Report on Form 10-K of TreeHouse Foods, Inc. for the year ended December 31, 2017.

/s/ DELOITTE & TOUCHE LLP

Chicago, Illinois
March 23, 2018

Consent of Independent Auditors

We consent to the use of our report dated January 13, 2016 with respect to the combined balance sheets of the Private Brands Business, a subsidiary of ConAgra Foods, Inc., as of May 31, 2015 and May 25, 2014, and the related combined statements of operations, comprehensive income (loss), invested equity, and cash flows for fiscal years then ended and for the four-month period ended May 26, 2013 incorporated herein by reference.

/s/ KPMG LLP

Omaha, Nebraska
March 23, 2018