

Bloomin' Brands, Inc.
Form S-8
April 22, 2016

As filed with
the
Securities
and
Exchange
Commission
on April 22,
2016
Registration
No. 333-

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

FORM S-8
REGISTRATION
STATEMENT
UNDER
THE
SECURITIES
ACT OF 1933

Bloomin' Brands, Inc.
(Exact name of
registrant as specified
in its charter)

Delaware 20-8023465
(State or other jurisdiction of (I.R.S. Employer
incorporation or organization) Identification No.)
2202 North West Shore Boulevard, Suite 500
Tampa, Florida 33607
(Address of Principal Executive Offices) (Zip Code)

Bloomin' Brands, Inc. 2016 Omnibus Incentive Compensation Plan
(Full title of the plan)

Joseph J. Kadow
Executive Vice President and Chief Legal Officer
Bloomin' Brands, Inc.
2202 North West Shore Boulevard, Suite 500, Tampa, Florida 33607
(Name and address of agent for service)

(813) 282-1225

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

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

Large accelerated filer Accelerated filer

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

CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be registered(1)(2)	Proposed maximum offering price per share (3)	Proposed maximum aggregate offering price	Amount of registration fee
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Common Stock, \$0.01 par value				
2016 Omnibus Incentive Compensation Plan	10,100,000	\$17.85	\$180,285,000	\$18,155

(1) Represents the maximum number of shares of the registrant’s Common Stock available for issuance pursuant to the Bloomin’ Brands, Inc. 2016 Omnibus Incentive Compensation Plan (the “Plan”).

(2) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended, this Registration Statement also covers an indeterminable number of additional shares of Common Stock that may become issuable pursuant to the anti-dilution provisions of the Plan.

(3) This calculation is made solely for the purpose of determining the registration fee pursuant to Rule 457(h) under the Securities Act. The fee is calculated on the basis of the average of the high and low sale prices per share of the Common Stock on The Nasdaq Global Select Market as of a date (April 18, 2016) within five business days prior to filing this Registration Statement.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Information required by Part I to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act of 1933, as amended (the "Securities Act"), and the Note to Part I of Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by the Registrant with the Commission are incorporated herein by reference:

- (1) The Registrant's Annual Report on Form 10-K filed with the Commission on February 24, 2016 (File No. 001-35625);
- (2) The Registrant's Current Reports on Form 8-K filed with the Commission on January 22, 2016 and February 17, 2016 (other than Items 2.02 and 9.01 contained therein, which have been furnished, but not filed, with the Commission) (File No. 001-35625); and
- (3) The description of the Registrant's Common Stock, \$0.01 par value per share, contained in the Registrant's Registration Statement on Form 8-A, filed with the Commission pursuant to Section 12 of the Exchange Act on August 3, 2012, and any other amendments or reports filed for the purpose of updating such description (File No. 001-35625).

All reports and other documents filed by the Registrant after the date hereof pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended, prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be part hereof from the date of filing of such reports and documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

The Registrant is governed by the Delaware General Corporation Law, or DGCL. Section 145 of the DGCL provides that a corporation may indemnify any person, including an officer or director, who was or is, or is threatened to be made, a party to any threatened, pending or completed legal action, suit or proceeding, whether civil, criminal,

administrative or investigative (other than an action by or in the right of such corporation), by reason of the fact that such person was or is an officer, director, employee or agent of such corporation or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnity may

include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided such officer, director, employee or agent acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the corporation's best interest and, for criminal proceedings, had no reasonable cause to believe that such person's conduct was unlawful. A Delaware corporation may indemnify any person, including an officer or director, who was or is, or is threatened to be made, a party to any threatened, pending or contemplated action or suit by or in the right of such corporation, under the same conditions, except that such indemnification is limited to expenses (including attorneys' fees) actually and reasonably incurred by such person, and except that no indemnification is permitted without judicial approval if such person is adjudged to be liable to such corporation. Where an officer or director of a corporation is successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to above, or any claim, issue or matter therein, the corporation must indemnify that person against the expenses (including attorneys' fees) which such officer or director actually and reasonably incurred in connection therewith.

The Registrant's amended and restated bylaws authorize the indemnification of its officers and directors, consistent with Section 145 of the Delaware General Corporation Law, as amended. The Registrant has also entered into indemnification agreements with each of its directors and executive officers. These agreements, among other things, require the Registrant to indemnify each director and executive officer to the fullest extent permitted by Delaware law, including advancement of expenses such as attorneys' fees, judgments, fines and settlement amounts incurred by the director or executive officer in any action or proceeding, including any action or proceeding by or in right of the Registrant, arising out of the person's services as a director or executive officer.

Pursuant to Section 102(b)(7) of the DGCL, the Registrant's certificate of incorporation contains a provision eliminating the personal liability of a director for violations of the director's fiduciary duty, except (i) for any breach of the director's duty of loyalty to the Registrant or its stockholders, (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) pursuant to Section 174 of the DGCL, which provides for liability of directors for unlawful payments of dividends or unlawful stock purchases or redemptions or (iv) for any transaction from which a director derived an improper personal benefit.

The Registrant maintains customary policies of insurance that provide coverage (i) to its directors and officers against loss arising from claims made by reason of breach of duty or other wrongful act and (ii) to the Registrant with respect to indemnification payments that it may make to such directors and officers.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits

Exhibit Number	Description
4.1	Second Amended and Restated Certificate of Incorporation of Bloomin' Brands, Inc. (included as an exhibit to the Registrant's Registration Statement on Form S-8, File No. 333-183270, filed on August 13, 2012 and incorporated herein by reference).
4.2	Second Amended and Restated Bylaws of Bloomin' Brands, Inc. (included as an exhibit to the Registrant's Registration Statement on Form S-8, File No. 333-183270, filed on August 13, 2012 and incorporated herein by reference).
4.3	Form of Common Stock Certificate (previously filed as Exhibit 4.1 to Amendment No. 4 to the Registration Statement on Form S-1 (File No. 333-180615), filed on July 18, 2012 and incorporated herein by reference).
4.4	Bloomin' Brands, Inc. 2016 Omnibus Incentive Compensation Plan (previously filed as Appendix A to the Registrant's Proxy Statement for its 2016 Annual Meeting, Schedule 14A (File No. 001-35625), filed on March 11, 2016 and incorporated herein by reference).
5.1	Opinion of Baker & Hostetler LLP.
10.1	Bloomin' Brands, Inc. 2016 Omnibus Incentive Compensation Plan (previously filed as Appendix A to the Registrant's Proxy Statement for its 2016 Annual Meeting, Schedule 14A (File No. 001-35625), filed on March 11, 2016 and incorporated herein by reference).
23.1	Consent of Baker & Hostetler LLP (included in Exhibit 5.1).
23.2	Consent of PricewaterhouseCoopers LLP.
24.1	Power of Attorney (included on the signature page).

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;

(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. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of a prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(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) above shall not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or 15(d) of the Exchange Act that are incorporated by reference in the Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, 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, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) 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 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act 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 and will be governed by the final adjudication of such issue.

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 Tampa, State of Florida, on April 22, 2016.

Bloomin' Brands, Inc.

By: /s/ Elizabeth A. Smith
 Name: Elizabeth A. Smith
 Title: Chief Executive Officer

POWER OF ATTORNEY

We, the undersigned officers and directors of Bloomin' Brands, Inc., hereby severally constitute and appoint David J. Deno, Joseph J. Kadow and Kelly B. Lefferts, and each of them singly (with full power to each of them to act alone), our true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution in each of them for him or her and in his or her name, place and stead, and in any and all capacities, to sign any and 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 or necessary to be done in and about the premises, as full to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

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

Signature	Title	Date
/s/ Elizabeth A. Smith Elizabeth A. Smith	Chief Executive Officer and Director (Principal Executive Officer)	April 22, 2016
/s/ David J. Deno David J. Deno	Executive Vice President and Chief Financial and Administrative Officer (Principal Financial and Accounting Officer)	April 22, 2016
/s/ Andrew B. Balson Andrew B. Balson	Director	April 22, 2016
/s/ James R. Craigie James R. Craigie	Director	April 22, 2016
/s/ David R. Fitzjohn David R. Fitzjohn	Director	April 22, 2016
/s/ Mindy Grossman Mindy Grossman	Director	April 22, 2016
/s/ Tara Walpert Levy Tara Walpert Levy	Director	April 22, 2016

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/s/ John J. Mahoney
John J. Mahoney Director

April 22, 2016

/s/ Chris T. Sullivan
Chris T. Sullivan Director

April 22, 2016

INDEX TO EXHIBITS

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