

DEAN FOODS CO
Form DEFA14A
May 13, 2013

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the

Securities Exchange Act of 1934

(Amendment No.)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Pursuant to §240.14a-12

Dean Foods Company

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

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FOCUS
Annual Meeting Voting Considerations

Compensation Related Matters

Dean Foods is soliciting your advisory vote on our executive compensation program

ISS recommends voting FOR
approval of our executive compensation program while Glass
Lewis recommends AGAINST

approval of our program

Dean Foods is committed to a pay-for-performance philosophy

The Company provided significant stockholder value during 2012 and 2013

Completed the initial public offering of WhiteWave in October 2012

Entered into an agreement relating to the sale of the Morningstar division and completed the sale in January 2013

Strong performance across all segments of the Company's business

Generated free cash flow of approximately \$156 million in 2012

Repaid approximately \$1.4 billion of debt in 2012

DF
stock
price
increased
approximately
47.4%
during
2012
and
has
increased
approximately
15.4%
in
2013
(as
of May 9, 2013)

2012
Increase
(47.4%)
-
Closing
Price
on 12/30/11:
\$11.20;
Closing
Price
on
12/31/2012:
\$16.51

2013 Increase (15.4%)

Closing Price on 12/31/12: \$16.51; Closing Price on 5/9/13: \$19.06

Announced
spin-off
of
a
portion
of
remaining
interest
in
WhiteWave
effective
as
of
May
23,
2013

Compensation Related Matters

Dean Foods has implemented corporate governance best practices

Change in Control Agreements (CIC Agreements)

Eliminated tax gross-ups from future CIC agreements in 2011

Eliminated
the
modified
single
trigger
provision
in
CIC
agreements
in
May
2013
so
all
CIC
agreements have double triggers

Gregg Tanner, Chief Executive Officer, and other executive officers agreed to amend existing CIC agreements to eliminate tax gross-ups and to move to double triggers

Gregg
Tanner
voluntarily
removed
himself
as
a
participant
in
the
Company's
executive retention plan for the performance period ended December 31, 2013

The Board has adopted stock ownership guidelines for executive officers

Tom Davis was appointed as an independent Chairman of the Board in May 2013

Compensation Related Matters

ISS recommends voting FOR
approval of our executive compensation program

ISS originally recommended voting against approval of our executive compensation program but
reversed its recommendation after the Company eliminated the modified single trigger

provisions
from
its
CIC
agreements
and
Mr.
Tanner
entered
into
a
new
CIC
agreement

ISS notes that pay-for-performance is a low concern

Glass Lewis recommends voting AGAINST approval of our executive compensation program and the election of Tom Davis as a director because he serves on the Compensation Committee

We strongly disagree with Glass Lewis analysis, which criticizes the Company's pay-for-performance

Glass

Lewis
states
that
the
Company
performed
worse
than
its
peers
despite
an
approximate
47.4% increase in the Company's stock price during 2012. The Company believes that any
pay-for-performance
analysis
that
criticizes an approximate 47.4% increase in stock price and
associated increase in TSR (Total Shareholder Return) is fundamentally flawed.

Accelerated Vesting of Equity Awards

A stockholder proposal urges the Board to adopt a policy prohibiting the full acceleration of equity awards upon a change in control of the Company

ISS
and

Glass
Lewis
each
recommend
voting
FOR
this
proposal

We strongly disagree with ISS
and Glass Lewis
recommendations and the Board
recommends voting AGAINST
this proposal

Accelerated vesting allows the management team to remain objective and focused on protecting stockholder value in a change in control transaction, removes some of the uncertainty for executives, including potential job loss, from such a transaction, and helps management avoid potential conflicts of interest and distractions that could exist in a change in control transaction

None of the companies in our peer groups have adopted the proposed policy so we would be at a significant disadvantage in recruiting and retaining key executives

The proposed policy disproportionately punishes senior executives as they may not have the opportunity to realize value from their outstanding incentive equity awards

Equity Retention Guidelines

A stockholder proposal seeks to urge the Compensation Committee to adopt a policy requiring the retention by senior executives of at least 75% of shares received through compensation programs until retirement or termination

Glass

Lewis
recommends
voting
AGAINST
this
proposal
noting
that
such
a
policy may hinder the ability of the compensation committee to attract and retain
executive talent
and that the Company's stock ownership guidelines sufficiently
address the requests of this proposal

ISS recommends voting FOR
this proposal

We strongly disagree with ISS recommendation and the Board recommends
voting AGAINST
this proposal

The Board has adopted minimum stock ownership guidelines for executive officers

Current compensation programs provide balance between ensuring that management's efforts
are consistent with long-term objectives of stockholders while permitting executives to prudently
manage their own financial affairs

The
proposed
policy
is
uncommon
among
our
peers
and
would
impair
our
ability
to
recruit
and
retain key executives

Independent Chair

A
stockholder
proposal
seeks
to

urge
the
Board
to
adopt
a
policy
requiring
an
independent Chairman of the Board

On May 1, 2013, Mr. Tom Davis, an independent director, was appointed as the Chairman of the Board

ISS recommends voting **AGAINST**
this proposal

Originally,
ISS
recommended
voting
FOR
such
proposal
but
reversed
the
recommendation
after the Board appointed an independent chairman on May 1st

Glass
Lewis
recommends
voting
FOR
this
proposal
and
has
not
updated
their
analysis of this proposal to account for the appointment of Mr. Davis as the
independent Chairman of the Board on May 1st