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 x 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
- x Definitive Additional Materials
- " Soliciting Material Pursuant to §240.14a-12

# **Dean Foods Company**

(Name of Registrant as Specified In Its Charter)

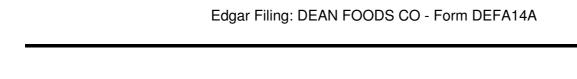
 $(Name\ of\ Person(s)\ Filing\ Proxy\ Statement,\ if\ other\ than\ the\ Registrant)$ 

Payment of Filing Fee (Check the appropriate box):

	No f	ee required.
	Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.	
	1)	Title of each class of securities to which transaction applies:
	2)	Aggregate number of securities to which transaction applies:
	2)	riggregate number of securities to which transaction applies.
	3)	Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):
	4)	Proposed maximum aggregate value of transaction:
	5)	Total fee paid:
Fee paid previously with preliminary materials.		
Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.		
	1)	Amount Previously Paid:
	2)	Form, Schedule or Registration Statement No.:
	3)	Filing Party:
	4)	Date Filed:

## 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

 $\quad \text{and} \quad$ 

has

increased

approximately

15.4%

in

2013

(as

of May 9, 2013)

2012

Increase

(47.4%)

-

Closing

Price

on12/30/11:

\$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

the seed of the se
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

Eliminated

participant

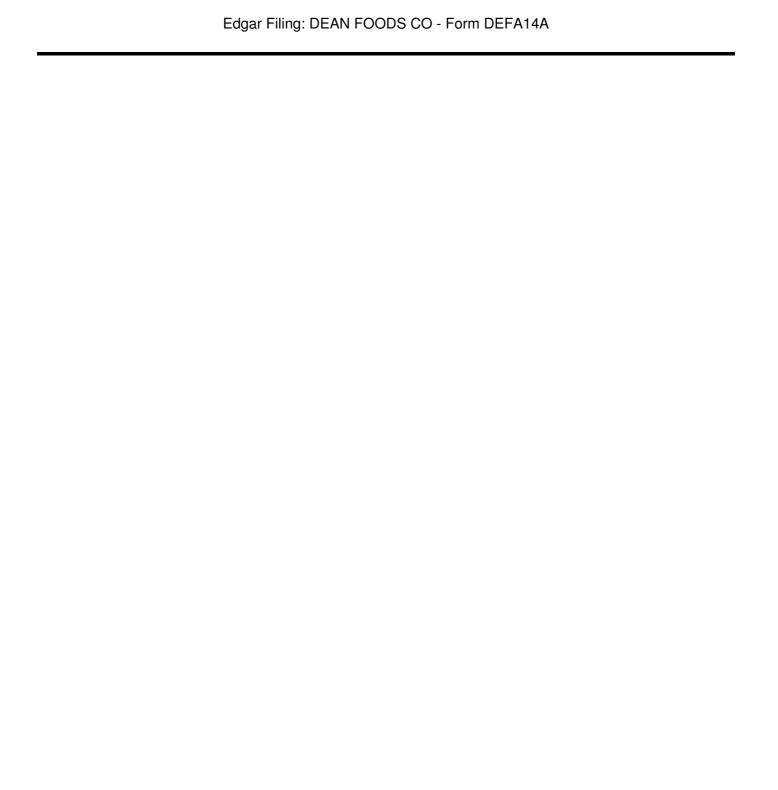
Company s

in the

The Board has adopted stock ownership guidelines for executive officers

executive retention plan for the performance period ended December 31, 2013

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

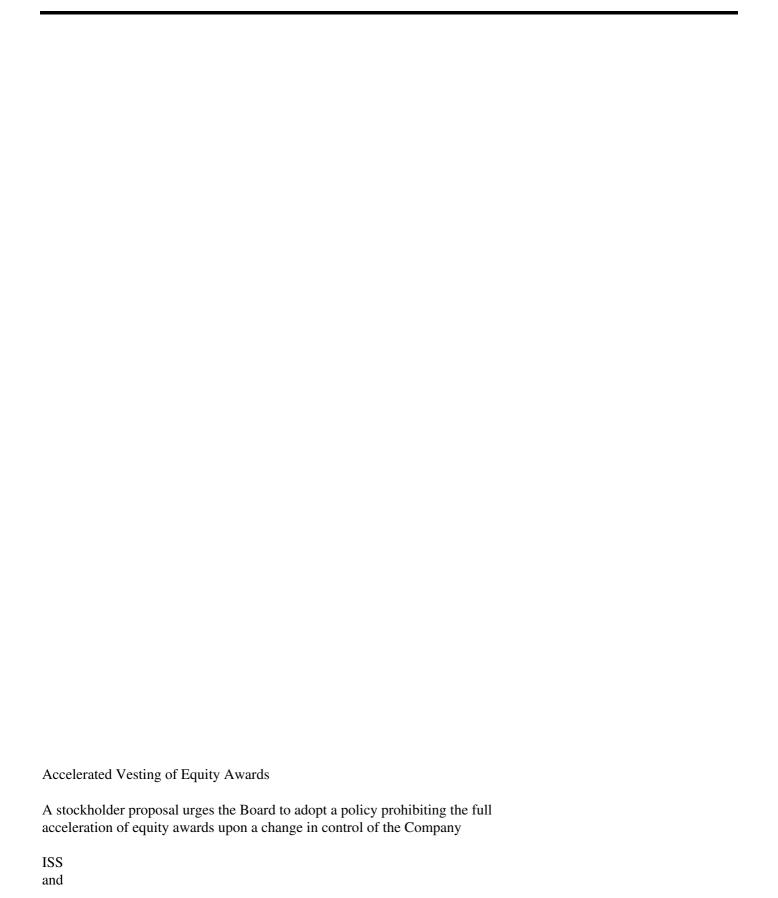
ISS originally recommended voting against approval of our executive compensation program but reversed its recommendation after the Company eliminated the modified single trigger

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

11

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.



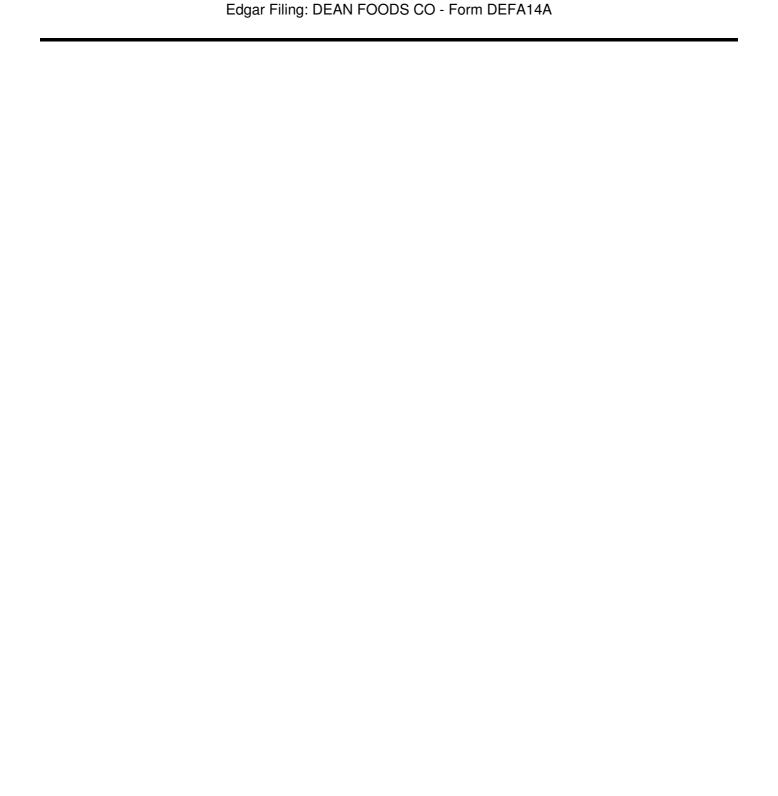
Glass Lewis each recommend voting FOR this proposal

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 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 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