

SONIC CORP
Form DEFA14A
October 01, 2018

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
SCHEDULE 14A
(Rule 14A-101)
Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934
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 under §240.14a-12

SONIC CORP.
(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 fee
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:

(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
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and state
how it was
determined):

(4) Proposed
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aggregate
value of
transaction:

(5) Total fee
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Fee paid previously
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Check box if any part
of the fee is offset as
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Act Rule 0-11(a)(2)
and identify the filing
for which the
offsetting fee was paid
previously. Identify the
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registration statement
number, or the Form or
Schedule and the date
of its filing.

(1) Amount
Previously
Paid:

(2) Form,
Schedule or
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Statement
No.:

(3) Filing Party:

(4) Date Filed:

CASH INCENTIVE PLAN FAQs

As announced on September 25, 2018, Sonic Corp. has entered into an agreement to be acquired by Inspire Brands, Inc. Although there are certain conditions and much to be done prior to closing, the transaction, referred to as a “merger,” is currently expected to close by the end of the year. These FAQs are intended to answer your questions about your cash incentive plan awards as a result of the merger.

Short-Term Cash Incentive Awards

1. Will FY18 short-term cash incentive awards be paid?

Subject to approval by the Board Compensation Committee, the FY18 short-term cash incentive award (annual bonus) will be paid as usual this year based on achievement of the award pursuant to its terms. We expect payment to occur on October 17, 2018.

2. Will FY19 short-term cash incentive awards be granted?

Subject to approval by the Board Compensation Committee, the FY19 short-term cash incentive awards will be granted as usual in October this year. Because the performance goal based on earnings per share will not be applicable after the merger, the performance goal will be based on operating income.

Long-Term Cash Incentive Awards

1. Will FY16-FY18 long-term cash incentive awards be paid?

Subject to approval by the Board Compensation Committee, the FY16-FY18 long-term cash incentive award will be paid as usual this year based on achievement of the award pursuant to its terms. We expect payment to occur on October 17, 2018.

2. What happens to the FY17-FY19 and FY18-FY20 long-term cash incentive awards previously granted?

With respect to these awards, Sonic will work with Inspire Brands to develop a method for adjusting or replacing the existing performance metrics for open performance periods as needed (earnings per share for FY17-FY19 and operating income for FY18-FY20). The objective will be to ensure that a level of performance for years after the closing date reasonably reflects what had been projected by management prior to the merger. Any changes will be communicated prior to the merger closing.

3. Will an FY19-FY21 long-term cash incentive award be granted?

Future long-term cash incentive awards will be granted in the first calendar quarter of calendar 2019 under the long-term cash incentive plan of Inspire Brands to cover FY19-FY21. These awards will be made on the same basis as grants to other employees eligible under the Inspire Brands plan, which we expect to be competitive. In addition, this grant will be adjusted to reflect the gap in coverage resulting from the later commencement of Inspire Brand Inc.’s fiscal year. We expect additional details to be communicated prior to the merger closing.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This communication contains “forward-looking statements” within the meaning of the U.S. federal securities laws. Such statements include statements concerning anticipated future events and expectations that are not historical facts. All statements other than statements of historical fact are statements that could be deemed forward-looking statements. Actual results may vary materially from those expressed or implied by forward-looking statements based on a number of factors, including, without limitation: (1) risks related to the consummation of the merger, including the risks that (a) the merger may not be consummated within the anticipated time period, or at all, (b) the parties may fail to obtain shareholder approval of the merger agreement, (c) the parties may fail to secure the termination or expiration of any waiting period applicable under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, (d) other conditions to the consummation of the merger under the merger agreement may not be satisfied, and (e) the significant limitations on remedies contained in the merger agreement may limit or entirely prevent Sonic Corp. from specifically enforcing Inspire Brands, Inc.’s obligations under the merger agreement or recovering damages for any breach by Inspire Brands, Inc.; (2) the effects that any termination of the merger agreement may have on Sonic Corp. or its business, including the risks that (a) Sonic Corp.’s stock price may decline significantly if the merger is not completed, (b) the merger agreement may be terminated in circumstances requiring Sonic Corp. to pay Inspire Brands, Inc. a termination fee, or (c) the circumstances of the termination, including the possible imposition of a 12-month tail period during which the termination fee could be payable upon certain subsequent transactions, may have a chilling effect on alternatives to the merger; (3) the effects that the announcement or pendency of the merger may have on Sonic Corp. and its business, including the risks that as a result (a) Sonic Corp.’s business, operating results or stock price may suffer, (b) Sonic Corp.’s current plans and operations may be disrupted, (c) Sonic Corp.’s ability to retain or recruit key employees may be adversely affected, (d) Sonic Corp.’s business relationships (including, customers, franchisees and suppliers) may be adversely affected, or (e) Sonic Corp.’s management’s or employees’ attention may be diverted from other important matters; (4) the effect of limitations that the merger agreement places on Sonic Corp.’s ability to operate its business, return capital to shareholders or engage in alternative transactions; (5) the nature, cost and outcome of pending and future litigation and other legal proceedings, including any such proceedings related to the merger and instituted against Sonic Corp. and others; (6) the risk that the merger and related transactions may involve unexpected costs, liabilities or delays; (7) other economic, business, competitive, legal, regulatory, and/or tax factors; and (8) other factors described under the heading “Risk Factors” in Part I, Item 1A of Sonic Corp.’s Annual Report on Form 10-K for the fiscal year ended August 31, 2017, as updated or supplemented by subsequent reports that Sonic Corp. has filed or files with the SEC. Potential investors, shareholders and other readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date on which they are made. Neither Inspire Brands, Inc. nor Sonic Corp. assumes any obligation to publicly update any forward-looking statement after it is made, whether as a result of new information, future events or otherwise, except as required by law.

ADDITIONAL INFORMATION AND WHERE TO FIND IT

This communication does not constitute an offer to sell or the solicitation of an offer to buy any securities or a solicitation of any vote or approval. This communication may be deemed to be solicitation material in respect of the proposed merger between Inspire Brands, Inc. and Sonic Corp. In connection with the proposed transaction, Sonic Corp. plans to file a proxy statement with the Securities and Exchange Commission (“SEC”). SHAREHOLDERS OF SONIC CORP. ARE URGED TO READ THE PROXY STATEMENT (INCLUDING ANY AMENDMENTS OR SUPPLEMENTS THERETO AND ANY DOCUMENTS INCORPORATED BY REFERENCE THEREIN) AND OTHER RELEVANT DOCUMENTS IN CONNECTION WITH THE PROPOSED TRANSACTION THAT SONIC CORP. WILL FILE WITH THE SEC WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT THE PROPOSED TRANSACTION AND THE PARTIES TO THE PROPOSED TRANSACTION. Shareholders and investors will be able to obtain free copies of the proxy statement and other relevant materials (when they become available) and other documents filed by Sonic Corp. at the SEC’s web site at www.sec.gov. Copies of the proxy statement (when they become available) and the filings that will be incorporated by reference therein may also be obtained, without charge, at <https://ir.sonicdrivein.com/> or by contacting Sonic Corp.’s Investor Relations at (405) 225-5000.

PARTICIPANTS IN SOLICITATION

Sonic Corp. and its directors, executive officers and certain employees may be deemed, under SEC rules, to be participants in the solicitation of proxies in respect of the proposed merger. Information regarding Sonic Corp.'s directors and executive officers is available in its proxy statement filed with the SEC on December 18, 2017. Other information regarding the participants in the proxy solicitation and a description of their direct and indirect interests, by security holdings or otherwise, will be contained in the proxy statement and other relevant materials to be filed with the SEC (when they become available). These documents can be obtained free of charge from the sources indicated above.
