

SANDERSON FARMS INC
Form 8-K
October 24, 2017

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d)

of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): October 18, 2017

SANDERSON FARMS, INC.

(Exact name of registrant as specified in its charter)

**Mississippi
(State or other jurisdiction
of incorporation)**

**1-14977
(Commission
File Number)**

**64-0615843
(I.R.S. Employer
Identification No.)**

**127 Flynt Road
Laurel, Mississippi**

39443

(Address of principal executive offices)

(Zip Code)

(601) 649-4030

(Registrant's telephone number, including area code)

(Former name or former address, if changed since last report)

Check the appropriate box if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

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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 13(a) of the Exchange Act.

Section 5 Corporate Governance and Management

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangement of Certain Officers.

On October 18, 2017, the Compensation Committee (the Committee) of the Board of Directors (the Board) of Sanderson Farms, Inc. (the Registrant) took the following actions, in each case for the Registrant's 2018 fiscal year:

(1) The Committee approved a salary for Timothy F. Rigney, Secretary and Controller, effective November 1, 2017, of \$325,000, and a 5% merit salary increase for each of Joe F. Sanderson, Jr., Chairman and Chief Executive Officer; Lampkin Butts, President and Chief Operating Officer and D. Michael Cockrell, Treasurer and Chief Financial Officer. Following such approval, the fiscal 2018 salary for each of the executive officers is as follows:

| | 2018 Salary |
|---------------|----------------|
| Mr. Sanderson | \$ 1,518,300 |
| Mr. Butts | \$ 740,722 |
| Mr. Cockrell | \$ 634,752 |
| Mr. Rigney | \$ 325,000 |

(2) The Committee made the following awards, effective November 1, 2017, to the executive officers under the Registrant's long term equity incentive program:

| Name | Performance Shares | Shares of Restricted Stock |
|---------------|--------------------|----------------------------|
| Mr. Sanderson | 16,750 | 16,750 |
| Mr. Butts | 4,250 | 4,250 |
| Mr. Cockrell | 3,500 | 3,500 |
| Mr. Rigney | 650 | 650 |

The Committee's approval of Mr. Sanderson's restricted stock award was made contingent upon the satisfaction of certain requirements under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, which have been satisfied as of the date of filing of this Current Report on Form 8-K.

The form of restricted stock agreement to be used for the restricted stock awards noted above will be substantially similar to the form of agreement filed as Exhibit 10.14 to the Registrant's Annual Report on Form 10-K for the fiscal year ended October 31, 2013. The form of performance share agreement for the performance share awards noted above will be filed as an exhibit to the Registrant's next Annual Report on Form 10-K. The following descriptions of the restricted stock and performance share agreements are necessarily not complete, and in each instance reference is made to the agreements themselves.

Restricted Stock Agreements

The form of restricted stock agreement provides for the grant of a specified number of shares of restricted stock to the participant as a reward for past service and as an incentive for the performance of future services and for no additional consideration, subject to the following terms and conditions:

The restricted stock may not be sold or transferred during the restricted period except by will or inheritance.

The restricted period lasts for four years, except that it ends and the shares fully and immediately vest in the event of the participant's death or disability or a change of control of the Registrant. If the participant terminates employment after attaining eligibility for retirement before the end of the restricted period, a pro rata percentage of the shares will immediately vest based on the number of years of the restricted period during which the participant was employed with the Registrant (for example, if the participant retires after one year of the restricted period has passed, he would receive 25% of the shares and would forfeit the remainder; if he retires after two years of the restricted period has passed, he would receive 50% of the shares and would forfeit the remainder; and so on).

Rights to the shares are forfeited if the participant's employment terminates for any other reason prior to the end of the restricted period, or if the Board determines that the participant has engaged in specified detrimental conduct or activity while employed with the Registrant or in the two-year period following his or her voluntary termination or termination for cause. If a participant's shares have already vested, he or she must repay the Registrant the fair market value of his or her shares that is specified in his or her restricted stock agreement.

During the restricted period, the participant is entitled to vote the shares and receive dividends.

Performance Share Agreements

The form of performance share agreement provides for the grant of the right to receive shares of the Registrant's common stock at the end of a restricted period, subject to the Registrant's achievement of certain performance measures over the two-year performance period commencing November 1, 2017. The restricted period means the three fiscal years commencing on November 1, 2017. The performance criteria are based on a historical average of the Registrant's performance over 26 two-year periods, dating back to the two-year period ending in 1991. A performance share award is granted as a reward for past service and as an incentive for the performance of future services and for no additional consideration, subject to the following terms and conditions:

A participant can receive a target amount of shares based on the Registrant's average return on equity (ROE) and a target based on the Registrant's average return on sales (ROS) over the two-year period commencing November 1, 2017. It also establishes several possible percentages of those target awards that he or she could receive, depending on the Registrant's actual performance measured at the end of the performance period. The performance criteria for the fiscal 2018 performance share awards are:

| Measure | Weight | Threshold (50% Payout) | Target (100% Payout) | Maximum (200% Payout) |
|----------------|---------------|-----------------------------------|---------------------------------|----------------------------------|
| ROE | 50% | 8.0% | 14.8% | 24.4% |
| ROS | 50% | 1.7% | 4.0% | 6.6% |

The Registrant's Board, in its sole discretion, may pay earned performance shares in the form of cash, in shares of common stock, or in a combination of cash or shares which has an aggregate fair market value equal to the value of the earned performance shares at the close of the applicable performance period.

If the participant's employment terminates because of death or disability or after attaining eligibility for retirement, or there has been a change in control of the Registrant before the end of the performance period, the participant will be entitled to receive, at the end of the restricted period, a pro rata portion of the number of performance shares to which he or she otherwise would have been entitled, based on the number of months he or she was employed with the Registrant during the performance period.

Rights to the shares are forfeited if the participant's employment terminates for any other reason prior to the end of the restricted period, or if the Board determines that the participant has engaged in specified detrimental conduct or activity while employed with the Registrant or in the two-year period following his or her voluntary termination or termination for cause. If a participant's shares have already been issued, he or

she must repay the Registrant their fair market value as of their issue dates.

During the restricted period, the participant does not have any of the rights of a stockholder of the Registrant with respect to his or her performance shares, including the right to vote the performance shares and the right to receive any dividends or other distributions.

A participant may not sell, exchange, transfer, pledge, hypothecate or otherwise dispose of his or her right to receive performance shares, other than by will or by the applicable laws of descent and distribution.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

Effective as of October 24, 2017, the Board amended and restated the Registrant's By-Laws to, among other things, (i) add certain requirements to the advance notice provisions in Article III, Section 9 of the By-Laws; (ii) add a new Section 12 to Article III of the By-Laws providing that stockholders may include nominees for director in the Registrant's proxy materials for an annual meeting of stockholders, if the requirements of the By-Laws are met (the Proxy Access By-Law) and (iii) provide that the size of the Board shall be determined by the Board from time to time, not to exceed 15 directors. Pursuant to the By-Laws as so amended and restated, and effective as of October 24, 2017, the Board fixed the size of the Board at 13.

Under the Proxy Access By-Law, any stockholder, or group of up to 20 stockholders, owning 3% or more of the Registrant's outstanding common stock continuously for at least three years is eligible to nominate and include in the Registrant's annual meeting proxy materials director nominees constituting up to the greater of two directors or 20% of the directors in office, provided that the nominating stockholder(s) and the director nominee(s) satisfy the requirements specified in the Proxy Access By-Law.

The foregoing description of the amended and restated By-Laws is qualified in its entirety by reference to the full text of the amended and restated By-Laws, which is included as Exhibit 3 to this Current Report on Form 8-K and incorporated in this Item 5.03 by reference.

Section 9 Financial Statements and Exhibits

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits:

Exhibit

| No. | Description |
|-----|---|
| 3 | Bylaws of the Registrant as amended and restated as of October 24, 2017 |

EXHIBIT INDEX

Exhibit

| No. | Description |
|-----|--|
| 3 | <u>Bylaws of the Registrant as amended and restated as of October 24, 2017</u> |

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

SANDERSON FARMS, INC.

(Registrant)

Date: October 24, 2017

*By: /s/ D. Michael Cockrell
D. Michael Cockrell*

Treasurer and Chief Financial Officer