

MEDIFAST INC
Form DEF 14A
July 23, 2007

**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

Medifast, Inc.

(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 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 fee 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:

Persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

MEDIFAST, Inc.

To our Stockholders:

You are cordially invited to attend our 2007 Annual Meeting of Stockholders on Friday, September 7, 2007. This meeting will be held at 10:00 a.m., Eastern Standard Time, at the Breakers Hotel, One South County Rd., Palm Beach, FL 33480. During the meeting, we will discuss each item of business described in the accompanying Notice of Annual Meeting and Proxy Statement, update you on important developments in our business and respond to any questions that you may have about us.

Information about the matters to be acted on at the meeting is contained in the accompanying Notice of Annual Meeting and Proxy Statement.

I would like to take this opportunity to remind you that your vote is very important. Please take a moment now to cast your vote in accordance with the instructions set forth on the enclosed proxy card. In addition, if you would like to attend the meeting in person, please see the admission instructions set forth in the Notice of Annual Meeting of Stockholders accompanying this letter and on the enclosed proxy card.

I look forward to seeing you at the meeting.
Best regards,

Bradley T. MacDonald
Chairman of the Board

Medifast Inc.
NOTICE OF ANNUAL GENERAL MEETING OF SHAREHOLDERS
To Be Held Friday, September 7, 2007

To the Shareholders:

NOTICE IS HEREBY GIVEN that the 2007 Annual General Meeting of Shareholders of Medifast Inc., a Delaware Corporation, or the Company, will be held on Friday, September 7, 2007 at 10:00 a.m., Eastern Standard Time, at the Breakers Hotel, One South County Rd., Palm Beach, FL 33480 for the following purposes:

1. Elect three Class I directors for a three year term ending in 2010;
2. Elect three directors to a one year term ending in 2008;
3. Ratify the appointment of the Company's independent registered public accountants for fiscal 2007;
4. Amend the Bylaws of the Corporation to empower the Board of Directors to elect a Vice-Chairman of the Board.
5. Act upon such other matters as may properly come before the meeting.

The foregoing items of business are more fully described in the Proxy Statement accompanying this Notice. Only shareholders of record at the close of business on July 16, 2007, are entitled to notice of and to vote at the meeting and any subsequent adjournment(s) or postponement(s) of the meeting.

All shareholders are cordially invited to attend the meeting in person. **However, to assure your representation at the meeting, you are urged to mark, sign, date and return the enclosed proxy card as promptly as possible.** Shareholders attending the meeting may vote in person even if they have returned a proxy card.

By Order of the Board of Directors,

Bradley T. MacDonald
Chairman of the Board

Owings Mills, MD
July 23, 2007

Table of Contents

THE ANNUAL GENERAL MEETING OF SHAREHOLDERS	
Information Concerning Solicitation and Voting	5
PROPOSAL 1: THE ELECTION OF DIRECTORS	
THE BOARD OF DIRECTORS	6
Director Independence	9
Board Meetings	9
Director Compensation	10
Shareholder Communications with the Board of Directors	11
Committees of the Board	11
PROPOSAL 2: THE RATIFICATION OF THE APPOINTMENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTANTS	12
Audit Committee Report	13
Fees to Independent Registered Public Accountants for Fiscal 2005 and 2006	14
Pre-Approval Policy	14
PROPOSAL 3: AMEND THE BYLAWS OF THE CORPORATION TO INCLUDE THE VICE-CHAIRMAN POSITION	14
Compensation Discussion and Analysis	15
Summary Compensation Table	17
SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT	21
ADDITIONAL INFORMATION	22
OTHER MATTERS	23

THE ANNUAL GENERAL MEETING OF SHAREHOLDERS

Information Concerning Solicitation and Voting

Place, Time and Date of Meeting. This Proxy Statement is being furnished to the Company's shareholders in connection with the solicitation of proxies on behalf of our Board of Directors for use at the Meeting to be held on Friday, September 7, 2007, at 10:00 a.m., Eastern Standard Time, and at any subsequent adjournment(s) or postponement(s) of the Meeting, for the purposes set forth herein and in the accompanying Notice of Annual General Meeting of Shareholders. The Meeting will be held at the Breakers Hotel, One South County Rd., Palm Beach, FL 33480.

Record Date and Voting Securities. Only shareholders of record at the close of business on July 16, 2007, or the Record Date, are entitled to notice of and to vote at the Meeting. The Company has one series of Common Shares outstanding. As of July 16, 2007, 13,669,098 Common Shares were issued and outstanding and held of record by 170 registered holders.

Voting. Each shareholder is entitled to one vote for each Common Share held on the Record Date on all matters submitted for consideration at the Meeting. A quorum, representing the holders of not less than a majority of the issued and outstanding Common Shares entitled to vote at the Meeting, must be present in person or by proxy at the Meeting for the transaction of business. Common Shares that reflect abstentions are treated as Common Shares that are present and entitled to vote for the purposes of establishing a quorum and for purposes of determining the outcome of any matter submitted to the shareholders for a vote. Each issued and outstanding share of common stock entitles the holder to one vote. Directors are elected by a plurality vote of shares present at the meeting, meaning that the director nominee with the most affirmative votes for a particular slot is elected for that slot. In an uncontested election of directors, the plurality requirement is not a factor. The holders of common stock are not entitled to cumulate their votes in the election of directors. Abstentions will not count as votes cast and will have no effect on the outcome of this proposal. We expect that brokers will be entitled to vote on this proposal, but any broker non-vote will have no effect on the outcome of the proposal.

The Company is not aware of any matter, other than as referred to in this proxy statement, to be presented at the meeting.

Revocability of Proxies. Any proxy given pursuant to this solicitation may be revoked by the person giving it at any time before its use by either (a) delivering to the Corporate Secretary of the Company a written notice of revocation or a duly executed proxy bearing a later date or (b) attending the Meeting and voting in person.

Solicitation Expenses. This solicitation of proxies is made by the Board of Directors and all related costs will be borne by the Company. Proxies may be solicited by certain of our directors, officers and regular employees, without additional compensation, in person, by telephone, facsimile or electronic mail. Except as described above, we do not presently intend to solicit proxies other than by mail. We will, upon request, reimburse brokerage firms and others for their reasonable expenses in forwarding solicitation material to the beneficial owners of Common Shares.

This Proxy Statement contains summaries of certain documents, but you are urged to read the documents themselves for the complete information. The summaries are qualified in their entirety by reference to the complete text of the document. In the event that any of the terms, conditions or other provisions of any such document is inconsistent with or contrary to the description or terms in this Proxy Statement, such document will control. Each of these documents, as well as those documents referenced in this Proxy Statement as being available in print upon request, are available upon request to the Company by following the procedures described under "Annual Report, Financial and Additional Information."

PROPOSAL 1:

THE ELECTION OF DIRECTORS

The number of directors in each class is determined by the Board of Directors and consists of as nearly equal a number of directors as possible. These directors are classified as Class I, Class II and Class III. The term of Class I Directors which is up for re-election is up for a three-year term ending in 2010. The term of Class II Directors will expire in 2008. The term for Class III Directors will expire in 2009.

The table below sets forth the name of each Class of director nominated. The nominees for Class I directors are to be voted at the Meeting. The Board of Directors has nominated Charles P. Connolly, Bradley T. MacDonald, and Donald F. Reilly for election as Class I directors to serve three-year terms expiring at the 2010 annual general meeting. The Board has also nominated Dennis M. McCarthy to a one year term and it is intended that he will be nominated as a Class II director in 2008. The Board of Directors has nominated Rich T. Aab to a one year term and it is intended that he will be nominated as a Class III director in 2009. In addition, the Board of Directors has nominated Michael S. McDevitt to a one year term and it is intended that he will be nominated as a class III director in 2009. Upon shareholder approval for the election of the Chief Executive Officer, Michael S. McDevitt, his father, Michael J. McDevitt plans to voluntarily remove himself from the Board of Directors. Each nominee has consented to be named as a nominee and, to the present knowledge of the Company, is willing to serve as a director, if elected. Should any of the nominees not remain a nominee at the end of the meeting (a situation which is not anticipated), solicited proxies will be voted in favor of those who remain as nominees and may be voted for substitute nominees. Unless contrary instructions are given on the proxy, the shares represented by a properly executed proxy will be voted "FOR" the election of nominated Charles P. Connolly, Bradley T. MacDonald, Donald F. Reilly, Dennis M. McCarthy, Richard T. Aab, and Michael S. McDevitt.

The Company did not receive any shareholder nominations for director.

The table below sets forth information about the six nominees and the directors whose terms of office continue beyond the Meeting.

THE BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE "FOR" MESSRS. CHARLES P. CONNOLLY, BRADLEY T. MACDONALD, DONALD F. REILLY, DENNIS M. MCCARTHY, RICHARD T. AAB, AND MICHAEL S. MCDEVITT

NOMINEES

Name and Experience	Class	Director Since
<p>Charles P. Connolly, age 58, is currently an independent director focusing on bank relationships, debt refinancing, merger and acquisition strategy and executive compensation design. Mr. Connolly spent 29 years at First Union Corp. that merged with Wachovia Bank in 2001. He retired in 2001 as the President and CEO of First Union Corp. Mr. Connolly serves on the Boards of numerous non-profit organizations. He holds an MBA from the University of Chicago and AB from Villanova University.</p>	I	2006
<p>Bradley T. MacDonald, age 59, is the Chairman of the Board of Medifast, Inc. Mr. MacDonald has been Chairman of the Board of Medifast, Inc. since January 1998 and was also Chief Executive officer until March of 2007. He was the principal architect of the turnaround of Medifast and formulated the “Direct to Consumer” business models that are the primary drivers of Revenue to this day. He also was the co-founder of Take Shape for Life and acquired the Clinic operations in 2002. During his time as CEO, he managed the company to 29 consecutive quarters of profits and improved shareholders equity from negative \$4 million to over \$27 million in less than seven years. He also increased the Company’s market cap from less than \$1 million to over \$100 million and listed the company on the NYSE. In 2006, Mr. MacDonald received the prestigious and audited Ernst and Young award of “Entrepreneur of the Year” for the state of Maryland in the consumer products category. Also, he helped lead the Company to national recognition in Forbes Magazine ranking Medifast 28th of the top 200 small companies in America . From 1991 through 1994, Colonel MacDonald returned to active duty to be Deputy Director and Chief Financial Officer of the Retail, Food, Hospitality and Recreation Businesses for the United States Marine Corps. Prior thereto, Mr. MacDonald served as Chief Operating Officer of the Bonneau Sunglass Company, President of Pennsylvania Optical Co., Chairman and CEO of MacDonald and Associates, which had major financial interests in a retail drug, consumer candy, and pilot sunglass companies. Mr. MacDonald was national president of the Marine Corps Reserve Officers Association and retired from the United States Marine Corps Reserve as a Colonel in 1997, after 27 years of service. He has been appointed to the Defense Advisory Board for Employer Support of the Guard and Reserve (ESGR) Mr. MacDonald serves on the Board of Directors of the Wireless Accessories Group (AMEX: XWG). He also serves on the Board of Directors of the Marine Corps Reserve Toys for Tots Foundation and is on the Board of Trustees of Villa Julie College of Stevenson, Maryland and the Institute of Notre Dame, the oldest Catholic girl’s urban high school in Maryland, located in Baltimore. Mr. MacDonald is the father of Margaret MacDonald who performs the role of President and Chief Operating Officer at Medifast, Inc. and the brother of board member Michael C. MacDonald.</p>	I	1996

- Donald F. Reilly, OSA**, age 59, holds a Doctorate in Ministry (Counseling) I 1998
from New York Theological and an M.A. from Washington Theological Union as well as a B.A. from Villanova University. Reverend Don Reilly was ordained a priest in 1974. His assignments included Associate Pastor, Pastor at St. Denis, Havertown, Pennsylvania, Professor at Villanova University, Personnel Director of the Augustinian Province of St. Thomas of Villanova, Provincial Counselor, Founder of SILOAM Ministries where he ministers and counsels HIV/AIDS patients and caregivers. He is currently on the Board of Directors of Villanova University, and is Board Member of Prayer Power. Fr. Reilly was recently re-elected Provincial of the Augustinian Order at Villanova, PA. He oversees more than 220 Augustinian Friars and their service to the Church, teaching at universities and high schools, ministering to parishes, serving as chaplain in the Armed Forces and hospitals, ministering to AIDS victims, and serving missions in Japan and South America.
- Dennis M. McCarthy**, age 62, practiced law for 21 years as a civil litigator II 2006
in tort and contract cases. He was the founding member and managing partner of a Columbus, Ohio based law firm. Additionally, he served active duty in the U.S. Marine Corps for 23 years and served 18 years in reserve service. Mr. McCarthy retired from the Marine Corps in 2005 in the grade of Lieutenant General after four years in command of all Marine Reserve forces. Mr. McCarthy is currently the Executive Director of the Reserve Officers Association, a congressionally chartered association devoted to national defense. In addition to Medifast, he is a member of the Board of Directors of Rivada Networks.
- Richard T. Aab**, age 58, co-founded US LEC in June 1996 and has served III 2007
as Chairman of the Board of Directors since that time. He also served as Chief Executive Officer from June 1996 until July 1999. Between 1982 and 1997, Mr. Aab held various positions with ACC Corp., an international telecommunications company in Rochester, NY, including Chairman and Chief Executive Officer, and served as a director. Mr. Aab is a member of the Board of Trustees of the University of Rochester, the University of Rochester Medical Center, Rochester Institute of Technology and various private corporate institutions.
- Michael S. McDevitt**, age 29, is the Chief Executive Officer and Chief III 2007
Financial Officer of Medifast, Inc. Mr. McDevitt joined Medifast in 2002 as Controller and was promoted to Vice President of Finance in January 2004. In March of 2005 he was promoted to President and subsequently promoted to the position of President and Chief Financial Officer in January of 2006. In March of 2007, Mr. McDevitt was promoted to Chief Executive Officer. Prior to joining Medifast, Mr. McDevitt worked as a Financial Analyst for The Blackstone Group, an investment and advisory firm based in New York, NY.

CONTINUING DIRECTORS

Name and Experience	Class	Director Since
<p>Michael C. MacDonald, age 53, is president of global accounts and marketing operations for Xerox Corporation, Stamford, Conn. He was named to this position in October 2004 and was appointed a corporate senior vice president in July 2000. Mac Donald is responsible for directing the company's largest global accounts, improving the customer experience, corporate marketing, xerox.com, advertising, worldwide public relations and marketing communications. Most recently, Mac Donald was president, North American Solutions Group responsible for all products, services and solutions sold by Xerox direct sales force in the United States and Canada. Prior to that, he served as the group's senior vice president of marketing and chief of staff. Mac Donald is on the board of directors of the Rochester Institute of Technology, PAETEC, and the Jimmy V Foundation. He is also a board member of the CMO Council North American Advisory Board. Mr. MacDonald completed executive business and management programs at Columbia University in 1992 and the International Senior Management Program at Harvard University in 1998</p>	II	1998
<p>Mary T. Travis, age 56, is currently employed with Sunset Mortgage Company, L.P. in Pennsylvania as the Senior Vice President of wholesale operations and was formerly the Vice President of operations for the Financial Mortgage Corporation. Mrs. Travis is an expert in mortgage banking with over 36 years of diversified experience. She is an approved instructor of the Mortgage Bankers Association Accredited School of Mortgage Banking. Mrs. Travis was also formally a delegate and 2nd Vice president of the Mortgage Bankers Association of Greater Philadelphia and the Board of Governors of the State of Pennsylvania.</p>	II	2002
<p>Joseph D. Calderone, age 58, is the Associate Director of Campus Ministry at Villanova University. He formerly spent over eight years with the Loyola University Medical Center as the hospital Chaplain and taught multiple courses including Introduction to the Practice of Medicine and Business Ethics. Rev. Calderone recently retired as a Captain in the US Navy Reserves. He served as the Wing Chaplain for the 4th Marine Aircraft Wing.</p>	III	#1