DEAN FOODS CO
Form DEFA14A
May 08, 2012

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
¨ Definitive Proxy Statement
x Definitive Additional Materials
¨ Soliciting Material Pursuant to §240.14a-12

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Dean Foods Company

(Name of Registrant as Specified In Its Charter)

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Dean Foods Company
Annual Meeting Voting Considerations
May 2012

Compensation-Related Matters

Dean Foods Company is soliciting your advisory vote on executive compensation

ISS recommends voting FOR our executive compensation program

our pay for performance is rated as a low concern

ISS notes that we responded to stockholder concerns by eliminating excise tax gross-ups in future change-in-control agreements

Glass Lewis recommends voting AGAINST (i) our executive compensation program because, among other reasons, they allege we have failed to align pay for performance and (ii) election of J. Wayne Mailloux to the Board because he serves on our Compensation Committee

We strongly disagree with Glass Lewis analysis, which seems to utilize a substantially different peer group that may not include CPG companies in its pay for performance analysis and continues to penalize our compensation structure for having excise tax gross-ups despite our adoption of the policy prospectively eliminating gross-ups in change-in-control agreements

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Compensation-Related Matters

Our Board recommends you vote FOR our executive compensation program

Our compensation policies and practices link pay to performance and strongly align the interests of our executive officers with our stockholders

We eliminated excise tax gross-ups for future change-in-control agreements in response to stockholder concerns and corporate governance best practices

We recently adopted stock ownership guidelines

Our CEO reduced his base salary with approval of the Compensation Committee in view of 2010 performance

We finished 2011 with a return to growth in the third and fourth quarters of 2011 and met or exceeded our guidance to investors in each quarter of 2011

Our Board recommends you vote FOR the election of Mr. Mailloux to the Board

Mr. Mailloux should not be punished merely for being part of our Compensation Committee. If stockholders disapprove of the company s executive compensation they have the ability to express such disapproval in the Say-on-Pay vote

Mr. Mailloux s experience in the beverage industry, combined with his global business experience, make him well qualified to advise our company

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Separation of Chairman and CEO Role

A stockholder proposal seeks to urge the Board to adopt a policy that the Board s Chairman be an independent director

ISS and Glass Lewis each recommends voting FOR this proposal

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

Nine out of ten members of our Board are independent

Our Board has an independent lead director whose duties are closely aligned with the role of an independent chairman, including (i) calling all Board meetings, (ii) approving the schedule and agenda for all Board meetings, (iii) presiding at executive sessions of the Board and (iv) acting as a liaison between the independent directors and our CEO

The independent members of the Board meet regularly in executive session

The majority of S&P 500 companies have

combined
the
Chairman
and
CEO
roles

Combining the Chairman and CEO roles facilitates information flow between management and the Board

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Accelerated Vesting of Equity Awards

A stockholder proposal seeks to urge the Board to adopt a policy prohibiting the acceleration of equity awards upon a change in control of the company

ISS and Glass Lewis recommends voting FOR this proposal claiming that a change in control would provide an economic windfall to plan participants and CEO

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

Flexible compensation policies are imperative to recruit and retain executive talent

Accelerated vesting of equity awards upon a change in control (i) aligns executive and stockholder interests, (ii) enables the company to retain its management team while a change in control transaction is pending, and (iii) avoids potential conflicts of interest and distractions that may arise when the company is going through a change in control

A majority of our peers do not have such a policy so adoption of the proposed policy would disadvantage us in recruiting and retaining executive talent

Such a policy would penalize management if we were taken private
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Equity Retention Guidelines

A stockholder proposal seeks to urge the Board to

adopt
a
policy
requiring
senior
executives retain until retirement at least 75% of shares received through
compensation programs.

Glass Lewis recommends voting AGAINST
this proposal because the proposed
policy may hinder the ability of the compensation committee to attract and retain
executive talent
and it does not believe that the proposal serves the best
interests of shareholders at this time.
We agree with this assessment of the
proposal.

ISS recommends voting FOR
this proposal [b]ased on the spirit of the
proposal

We strongly disagree with ISS
recommendation because it fails to (i) provide
a detailed analysis of the proposal, (ii) properly account for the stock
ownership guidelines already adopted by the Board, (iii) consider that such a
policy is unusual for our peer group, and (iv) recognize the significant
disadvantage that such a proposal would have on our ability to attract and
retain executive talent

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Equity Retention Guidelines
Our Board recommends voting AGAINST
this proposal
We have adopted equity ownership guidelines of 5x annual salary for our
CEO and 2x annual salary for our other Executive Officers
Our CEO owns stock worth over 30 times his base salary
The proposed policy would place restrictions on executives until
retirement
even if such executive is no longer employed by us

Retention guidelines as proposed are uncommon in our peer group and would significantly inhibit our ability to attract and retain executive talent

Our current compensation methodology already provides for meaningful stock ownership by our executives and aligns stockholder and executive interests

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