

BALL CORP
Form 8-K
December 08, 2015

UNITED STATES
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): **December 4, 2015**

BALL CORPORATION

(Exact name of registrant as specified in its charter)

Indiana
(State or other jurisdiction
of incorporation)

001-07349
(Commission
File Number)

35-0160610
(IRS Employer
Identification No.)

10 Longs Peak Drive, P.O. Box 5000
Broomfield, Colorado

80021-2510

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(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code: **(303) 469-3131**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communication 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))
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Item 1.01. Entry Into a Material Definitive Agreement.

On December 2, 2015, Ball Corporation, an Indiana corporation (the Company or Ball), entered into an underwriting agreement (the Underwriting Agreement) among the Company, the subsidiary guarantors (the Guarantors) and Goldman, Sachs & Co., as representative of the several underwriters named therein (the Underwriters), in connection with the Company's previously announced underwritten public offering (the Offering) of \$1,000,000,000 in aggregate principal amount of 4.375% Senior Notes due 2020, 400,000,000 in aggregate principal amount of 3.500% Senior Notes due 2020 and 700,000,000 in aggregate principal amount of 4.375% Senior Notes due 2023 (collectively, the Notes). The Notes were offered and sold under a prospectus, dated November 27, 2015, within the Company's shelf registration statement on Form S-3 (Registration No. 333-208235) and prospectus supplement dated December 2, 2015.

The Underwriting Agreement includes customary representations, warranties, covenants and closing conditions. It also provides for customary indemnification by each of the Company, the Guarantors and the Underwriters against certain liabilities and customary contribution provisions in respect of those liabilities.

The Company intends to use the net proceeds from the Offering to fund a portion of the cash portion of the purchase price payable in connection with the consummation of its proposed acquisition of Rexam PLC, a public limited company registered in England and Wales (the Rexam Acquisition) and related fees and expenses.

An affiliate of Deutsche Bank Securities Inc. is the administrative agent and collateral agent under the Company's revolving credit facility and the administrative agent under the Company's bridge term loan facility, and Goldman, Sachs & Co., Deutsche Bank Securities Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, KeyBanc Capital Markets Inc., Mizuho Securities USA Inc. and Rabo Securities USA, Inc. or their affiliates, are a joint lead arranger and joint bookrunner under these credit facilities. Affiliates of certain of the Underwriters are lenders under these credit facilities, and certain of the Underwriters or their affiliates have other lending or credit arrangements with the Company, including under the Company's accounts receivable securitization facility and accounts receivable factoring program. Additionally, affiliates of Goldman, Sachs & Co. and Deutsche Bank Securities Inc. have acted as joint financial advisers to the Company in connection with the Rexam Acquisition. We have also entered into certain derivative hedging transactions with some of the Underwriters.

A copy of the Underwriting Agreement is attached hereto as Exhibit 1.1 to this Current Report on Form 8-K and is incorporated by reference herein. The above description of the material terms of the Underwriting Agreement does not purport to be complete and is qualified in its entirety by reference to such Exhibit.

Item 7.01. Regulation FD Disclosure.

On November 30, 2015, the Company issued a press release announcing that it commenced an underwritten public offering of approximately 1.5 billion in aggregate principal amount of U.S. dollar-denominated Senior Notes due 2020 and euro-denominated Senior Notes due 2020 and 2023. A copy of this press release is attached hereto as Exhibit 99.1.

On December 2, 2015, the Company issued a press release announcing that it had priced an underwritten public offering of \$1 billion of 4.375% Senior Notes due 2020, 400 million of 3.50% Senior Notes due 2020 and 700 million of 4.375% Senior Notes due 2023. The offering is

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expected to close on December 14, 2015, subject to customary closing conditions and other factors. A copy of this press release is attached hereto as Exhibit 99.2.

Ball is making the offer under a shelf registration statement previously declared effective by the U.S. Securities and Exchange Commission. The offer will be made solely by means of a prospectus and prospectus supplement.

This announcement is for informational purposes only and does not constitute an offer to sell or a solicitation of an offer to purchase any securities. No offer, solicitation, or sale will be made in any jurisdiction in which such an offer, solicitation, or sale would be unlawful.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

| Exhibit No. | Description |
|--------------------|--|
| 1.1 | Underwriting Agreement, dated December 2, 2015 |
| 99.1 | Ball Corporation Press Release dated November 30, 2015 |
| 99.2 | Ball Corporation Press Release dated December 2, 2015 |

Forward-Looking Information

This Current Report on Form 8-K, and the documents incorporated by reference into this Current Report, contains forward-looking statements concerning future events and financial performance. Words such as expects, anticipates, estimates and similar expressions identify forward-looking statements. Such statements are subject to risks and uncertainties, which could cause actual results to differ materially from those expressed or implied. Ball undertakes no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. Key risks and uncertainties are summarized in filings with the Securities and Exchange Commission, including Exhibit 99 to our most recent Annual Report on Form 10-K and Exhibit 99 to our most recent Quarterly Report on Form 10-Q, which are available on our website and at www.sec.gov. Factors that might affect: a) our packaging segments include product demand fluctuations; availability/cost of raw materials; competitive packaging, pricing and substitution; changes in climate and weather; crop yields; competitive activity; failure to achieve productivity improvements or cost reductions; mandatory deposit or other restrictive packaging laws; customer and supplier consolidation, power and supply chain influence; changes in major customer or supplier contracts or loss of a major customer or supplier; political instability and sanctions; and changes in foreign exchange or tax rates; b) our aerospace segment include funding, authorization, availability and returns of government and commercial contracts; and delays, extensions and technical uncertainties affecting segment contracts; c) Ball as a whole include those listed above plus: changes in senior management; regulatory action or issues including tax, environmental, health and workplace safety, including U.S. Food and Drug Administration and other actions or public concerns affecting products filled in our containers, or chemicals or substances used in raw materials or in the manufacturing process; technological developments and innovations; litigation; strikes; labor cost changes; rates of return on assets of Ball's defined benefit retirement plans; pension changes; uncertainties surrounding the U.S. government budget, sequestration and debt limit; reduced cash flow; ability to achieve cost-out initiatives; interest rates affecting our debt; and successful or unsuccessful acquisitions and divestitures, including, with respect to the proposed Rexam acquisition, the effect of the announcement of the acquisition on our business relationships, operating results and business generally; the occurrence of any event or other circumstances that could give rise to the termination of our definitive agreement with Rexam in respect of the acquisition; the outcome of any legal proceedings that may be instituted against us related to the definitive agreement with Rexam; the failure to satisfy conditions to completion of the acquisition of Rexam, including the receipt of all required regulatory approvals; and the amount of any divestitures and the terms on which they can be sold in order to receive regulatory approval for the acquisition of Rexam PLC.

SIGNATURE

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.

BALL CORPORATION

Date: December 7, 2015

By: /s/ Charles E. Baker
Charles E. Baker
Vice President, General Counsel and Corporate Secretary

EXHIBIT INDEX

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