

Chefs' Warehouse, Inc.  
Form S-3  
June 03, 2016  
TABLE OF CONTENTS

**As filed with the Securities and Exchange Commission on June 3, 2016**

**Registration No. 333-**

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**Form S-3**

**REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933**

**THE CHEFS WAREHOUSE, INC.**

*(Exact name of registrant as specified in its charter)*

**Delaware**  
(State or other jurisdiction  
of incorporation or organization)

**20-3031526**  
(I.R.S. Employer  
Identification Number)

**100 East Ridge Road  
Ridgefield, Connecticut 06877  
(203) 894-1345**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Alexandros Aldous  
General Counsel and Corporate Secretary  
The Chefs' Warehouse, Inc.  
100 East Ridge Road  
Ridgefield, Connecticut 06877  
(203) 894-1345**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

*With a copy to:*

**Richard B. Alsop, Esq.  
Shearman & Sterling LLP  
599 Lexington Avenue  
New York, New York 10022  
(212) 848-4000**

**Approximate date of commencement of proposed sale of securities to the public:** From time to time after the effective date of this Registration Statement.

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

Edgar Filing: Chefs' Warehouse, Inc. - Form S-3

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12-b2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if smaller reporting company)

Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Unit	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
<b>Primary Offering:</b>				
Common Stock, par value \$0.01 per share <sup>(3)</sup>	(1)	(1)	(2)	
Preferred Stock, par value \$0.01 per share <sup>(3)</sup>	(1)	(1)	(2)	
Warrants	(1)	(1)	(2)	
Debt Securities	(1)	(1)	(2)	
Units	(1)	(1)	(2)	
<b>Total</b>	\$250,000,000	—	\$79,800,000	\$8035.86
<b>Secondary Offering:</b>				
Common Stock, par value \$0.01 per share <sup>(3)</sup>	2,000,000 shares	\$15.405 <sup>(4)</sup>	\$2,966,086 <sup>(4)</sup>	\$298.68
<b>Total</b>				\$8,334.54 <sup>(5)</sup>

Edgar Filing: Chefs' Warehouse, Inc. - Form S-3

With respect to the primary offering, the registrant is registering an indeterminate number of shares of common stock, preferred stock, warrants, debt securities, and units as may be sold by the registrant from time to time. The amount to be registered with respect to the primary offering and the proposed maximum aggregate offering price (1) per unit with respect to the primary offering are not specified as to each class of securities to be registered pursuant to General Instruction II.D. of Form S-3 under the Securities Act of 1933, as amended (the Securities Act ). The securities covered by this Registration Statement may be sold or otherwise distributed separately or together with any other securities covered by this Registration Statement.

*(footnotes continued on next page)*

TABLE OF CONTENTS

*(footnotes continued from previous page)*

(2) The proposed maximum aggregate offering price per class of security will be determined from time to time by the registrant in connection with the issuance of the securities registered hereunder. The aggregate maximum offering price of all securities issued by The Chefs' Warehouse, Inc. in the primary offering pursuant to this Registration Statement shall not exceed \$250,000,000. This price includes such indeterminate principal amount, liquidation amount or number of identified classes of securities as may be issued in the primary offering upon conversion or exchange of any debt securities, preferred stock or warrants that provide for conversion or exchange into other securities. No separate consideration will be received for such securities that are issued upon exchange or conversion of debt securities, preferred stock or warrants.

(3) Pursuant to Rule 416 under the Securities Act, the shares of common stock and preferred stock being registered hereunder include such indeterminate number of shares as may be issuable as a result of stock splits, stock dividends or similar transactions.

(4) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) under the Securities Act based on a per share price of \$15.405, the average of the high and low reported sale prices of the registrant's common stock on the Nasdaq Global Select Market on June 1, 2016.

(5) Calculated in accordance with Rule 457(o). With respect to the primary offering, \$170,200,000 of the \$250,000,000 maximum aggregate offering of the registrant's securities registered hereunder are unsold securities previously registered on the registrant's registration statement on Form S-3 that was declared effective on June 6, 2013 (No. 333-187348) (the "Prior S-3"). With respect to the secondary offering, 1,807,522 of the 2,000,000 shares of the common stock registered hereunder are unsold securities previously registered on the Prior S-3. Pursuant to Rule 415(a)(6) under the Securities Act, the \$40,920 registration fee previously paid in connection with such unsold securities will continue to be applied to such unsold securities being moved from the Prior S-3 to this replacement registration statement. Accordingly, the amount of the registration fee in the Calculation of Registration Fee table (\$8,334.54) relates to the additional proposed aggregate principal amount of \$79,800,000 of the registrant's securities being registered hereunder as to the primary offering and the additional 192,478 shares of common stock being registered hereunder as to the secondary offering. Pursuant to Rule 415(a)(6) under the Securities Act, the offering of unsold securities under the Prior S-3 will be deemed terminated as of the date of effectiveness of this registration statement.

**The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.**

TABLE OF CONTENTS

**The information in this prospectus is not complete and may be changed or supplemented. We may not sell any of the securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell the securities described herein and we are not soliciting offers to buy the securities described herein in any jurisdiction where the offer or sale is not permitted.**

**SUBJECT TO COMPLETION, DATED JUNE 3, 2016**

**PROSPECTUS**

**The Chefs' Warehouse, Inc.**

**Common Stock  
Preferred Stock  
Warrants  
Debt Securities  
Units**

This prospectus relates to common stock, preferred stock, warrants, debt securities and units that we may offer from time to time. The debt securities may consist of debentures, notes, or other types of debt. The debt securities, preferred stock and warrants may be convertible, exercisable or exchangeable for common or preferred stock or other securities of ours. The units may consist of any combination of the securities listed above. The securities may be offered in an amount or number, at prices and on other terms and conditions to be determined at the time of sale and described in a prospectus supplement accompanying this prospectus.

We may offer and sell the securities on a continuous or delayed basis to or through one or more underwriters, dealers or agents, or directly to the purchasers. We reserve the sole right to accept, and together with our agents, from time to time, to reject in whole or in part any proposed purchase of securities to be made directly or through our agents. If our agents or any dealers or underwriters are involved in the sale of the securities, the applicable prospectus supplement will set forth the names of the agents, dealers or underwriters and any applicable commissions or discounts. Our net proceeds from the sale of securities will also be set forth in the applicable prospectus supplement.

In addition, up to 2,000,000 shares of our common stock may be offered and sold, from time to time, by selling stockholders described in this prospectus under the heading **Selling Stockholders** in the future in amounts, at prices and on other terms to be determined at the time of the offering and by any means described in this prospectus under the heading **Plan of Distribution**. We will not receive any proceeds from the sale of our common stock by any of the selling stockholders.

This prospectus may not be used to sell shares of our common or preferred stock, warrants, debt securities or units unless accompanied by a prospectus supplement.

We will provide the specific terms of each offering of our securities in supplements to this prospectus. You should read this prospectus and any prospectus supplement, as well as the documents incorporated or deemed to be incorporated by reference into this prospectus or any prospectus supplement, carefully before you invest. Our common stock is listed on the NASDAQ Global Select Market under the symbol **CHEF**. On June 1, 2016, the closing price of our common stock on the NASDAQ Global Select Market was \$15.63 per share.

The mailing address of our principal executive offices is 100 East Ridge Road, Ridgefield, Connecticut 06877. Our telephone number is (203) 894-1345.

**Investing in our common or preferred stock, warrants, debt securities or units involves a high degree of risk. You should carefully consider all of the information set forth in the Risk Factors section of our periodic reports filed with the Securities and Exchange Commission, the Risk Factors section beginning on page 1 of this prospectus and in the applicable prospectus supplement before investing in any of our common or preferred stock, warrants, debt securities or units.**

**Neither the Securities and Exchange Commission nor any state securities commission or other regulatory body has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

The date of this prospectus is .

TABLE OF CONTENTS

**Table of Contents**

<u>RISK FACTORS</u>	<u>1</u>
<u>ABOUT THIS PROSPECTUS</u>	<u>1</u>
<u>SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS</u>	<u>2</u>
<u>THE COMPANY</u>	<u>4</u>
<u>GENERAL DESCRIPTION OF SECURITIES WE MAY SELL</u>	<u>5</u>
<u>USE OF PROCEEDS</u>	<u>5</u>
<u>SELLING STOCKHOLDERS</u>	<u>5</u>
<u>RATIO OF EARNINGS TO FIXED CHARGES</u>	<u>6</u>
<u>DESCRIPTION OF CAPITAL STOCK</u>	<u>6</u>
<u>DESCRIPTION OF WARRANTS</u>	<u>8</u>
<u>DESCRIPTION OF DEBT SECURITIES</u>	<u>9</u>
<u>DESCRIPTION OF UNITS</u>	<u>18</u>
<u>PLAN OF DISTRIBUTION</u>	<u>19</u>
<u>LEGAL MATTERS</u>	<u>22</u>
<u>EXPERTS</u>	<u>22</u>
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	<u>22</u>
<u>INCORPORATION BY REFERENCE</u>	<u>23</u>

TABLE OF CONTENTS

**RISK FACTORS**

Investing in our securities involves risks. You should carefully consider the risks described under Part I. Item 1A. Risk Factors in our most recent Annual Report on Form 10-K and in the other documents incorporated by reference into this prospectus (which risk factors are incorporated by reference herein), including documents we file with the SEC after the date of this prospectus, as well as the other information contained or incorporated by reference in this prospectus or in any prospectus supplement, before making a decision to invest in our securities.

**ABOUT THIS PROSPECTUS**

This prospectus is a part of a registration statement that we filed with the Securities and Exchange Commission, or the SEC, utilizing a shelf registration process. Under this shelf registration process, we may, from time to time, sell the securities described in this prospectus in one or more offerings and the selling stockholders identified herein may, from time to time, sell shares of our common stock in one or more offerings.

The registration statement containing this prospectus, including the exhibits to the registration statement, provides additional information about us and the securities offered under this prospectus. The registration statement, including the exhibits and the documents incorporated or deemed incorporated herein by reference, can be read on the SEC website or at the SEC offices mentioned under the heading Where You Can Find More Information.

Each time we or the selling stockholders sell securities pursuant to this prospectus, we will provide a prospectus supplement containing specific information about the terms of the securities being offered. The prospectus supplement may add, update or change information in this prospectus. If the information in the prospectus is inconsistent with a prospectus supplement, you should rely on the information in that prospectus supplement. You should read both this prospectus and, if applicable, any prospectus supplement. See Where You Can Find More Information for more information.

We have not authorized any dealer, salesman or other person to give any information or to make any representation other than those contained or incorporated by reference in this prospectus or any prospectus supplement. You must not rely upon any information or representation not contained or incorporated by reference in this prospectus or any prospectus supplement. This prospectus and any prospectus supplement do not constitute an offer to sell or the solicitation of an offer to buy any securities other than the registered securities to which they relate, nor do this prospectus and any prospectus supplement constitute an offer to sell or the solicitation of an offer to buy securities in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction. You should not assume that the information contained in this prospectus or any prospectus supplement is accurate on any date subsequent to the date set forth on the front of such document or that any information we have incorporated by reference is correct on any date subsequent to the date of the document incorporated by reference, even though this prospectus and any prospectus supplement is delivered or securities are sold on a later date.

Unless expressly stated or the context otherwise requires, the The Chefs Warehouse, we, our, our Company, the Company or us as used in this prospectus refer to The Chefs Warehouse, Inc. and its subsidiaries.



TABLE OF CONTENTS

**SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

The information in this prospectus, any accompanying prospectus supplement and the documents incorporated by reference herein and therein contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, and are subject to the safe harbor created by the Private Securities Litigation Reform Act of 1995. Forward-looking statements provide our current expectations or forecasts of future events and are not statements of historical fact. These forward-looking statements include information about possible or assumed future events, including, among other things, discussion and analysis of our future financial condition, results of operations, strategic plans and objectives, cost management, liquidity and ability to refinance our indebtedness as it matures, anticipated capital expenditures (and access to capital) required to complete projects, amounts of cash distributions to our stockholders in the future, if any, and other matters. Words such as anticipates, expects, intends, plans, believes, seeks, estimates and variations of these words and similar expressions are intended to identify forward-looking statements. These statements are not guarantees of future performance and are subject to risks, uncertainties and other factors, some of which are beyond our control, are difficult to predict and/or could cause actual results to differ materially from those expressed or forecasted in the forward-looking statements.

Forward-looking statements involve inherent uncertainty and may ultimately prove to be incorrect or false. You are cautioned not to place undue reliance on forward-looking statements. Except as otherwise may be required by law, we undertake no obligation to update or revise forward-looking statements to reflect changed assumptions, the occurrence of unanticipated events or actual operating results. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of various factors, including, but not limited to, the following:

- our success depends to a significant extent upon general economic conditions, including disposable income levels and changes in consumer discretionary spending;
- a significant portion of our future growth is dependent upon our ability to expand our operations in our existing markets and to penetrate new markets through acquisitions;
- we may not achieve the benefits expected from our acquisitions, including our recent acquisition of Del Monte, which could adversely impact our business and operating results;
- we may have difficulty managing and facilitating our future growth;
- conditions beyond our control could materially affect the cost and/or availability of our specialty food products or center-of-the-plate products and/or interrupt our distribution network;
- our increased distribution of center-of-the-plate products, like meat, poultry and seafood, following our acquisitions of Michael's Finer Meats, LLC ( Michael's ), Allen Brothers, Inc. ( Allen Brothers ) and Del Monte Capital Meat Co. and certain related entities ( Del Monte ), involves risks that we have not historically faced;
- our business is a low-margin business and our profit margins may be sensitive to inflationary and deflationary pressures;
- group purchasing organizations may become more active in our industry and increase their efforts to add our customers as members of these organizations;
- because our foodservice distribution operations are concentrated in certain culinary markets, we are susceptible to economic and other developments, including adverse weather conditions, in these areas; damage to our reputation or lack of acceptance of our specialty food products, center-of-the-plate products and/or the brands we carry in existing and new markets could materially and adversely impact our business, financial condition or results of operations;
- our customers are generally not obligated to continue purchasing products from us;
- we have experienced losses due to our inability to collect accounts receivable in the past and could experience increases in such losses in the future if our customers are unable to pay their debts to us in a timely manner or at all;



TABLE OF CONTENTS

- product liability claims could have a material adverse effect on our business, financial condition or results of operations;
- fuel cost volatility may have a material adverse effect on our business, financial condition or results of operations;
- new information or attitudes regarding diet and health or adverse opinions about the health effects of the products we distribute could result in changes in consumer eating habits, which could have a material adverse effect on our business, financial condition or results of operations;
- we have significant competition from a variety of sources, and we may not be able to compete successfully;
- our substantial indebtedness may limit our ability to invest in the ongoing needs of our business;
- we may be unable to obtain debt or other financing, including financing necessary to execute on our acquisition strategy, on favorable terms or at all;
- information technology system failures or breaches of our network security could interrupt our operations and adversely affect our business;
- our investments in information technology may not produce the benefits that we anticipate;
- we may not be able to adequately protect our intellectual property, which, in turn, could harm the value of our brands and adversely affect our business;
- our business operations and future development could be significantly disrupted if we lose key members of our management team;
- our insurance policies may not provide adequate levels of coverage against all claims, and fluctuating insurance requirements and costs could negatively impact our profitability and if we fail to establish proper reserves and adequately estimate future expenses, the costs associated with our self-insured group medical, workers' compensation liability and auto liability plans may adversely affect our business, financial condition or results of operations;
- increases in our labor costs, including as a result of labor shortages, the unionization of some of our associates, the price or unavailability of insurance and changes in government regulation, could slow our growth or harm our business;
- we are subject to significant governmental regulation and failure to comply could subject us to enforcement actions, recalls or other penalties, which could have a material adverse effect on our business, financial condition or results of operations;
- federal, state, provincial and local tax rules in the United States and Canada may adversely impact our business, financial condition or results of operations.

This list of risks and uncertainties, however, is only a summary of some of the most important factors and is not intended to be exhaustive. You should carefully review the risks that are set forth under the caption "Risk Factors" in any accompanying prospectus supplement, and in our most recently filed Annual Report on Form 10-K and Quarterly Report on Form 10-Q. New factors that are not currently known to us or of which we are currently unaware may also emerge from time to time that could materially and adversely affect us.

Any forward-looking statements speak only as of the date of this prospectus or any prospectus supplement, and we undertake no obligation to update any forward-looking statements to reflect events or circumstances after the date on which such statements are made or to reflect the occurrence of unanticipated events. New factors emerge from time to time, and it is not possible for us to predict all of such factors, nor can we assess the impact of any such factor on our business or the extent to which any factor, or combination of factors, may cause results to differ materially from those contained in any forward-looking statements.

## TABLE OF CONTENTS

### **THE COMPANY**

We are a premier distributor of specialty food products in the United States and Canada. We are focused on serving the specific needs of chefs who own and/or operate some of the leading menu-driven independent restaurants, fine dining establishments, country clubs, hotels, caterers, culinary schools, bakeries, patisseries, chocolatiers, cruise lines, casinos and specialty food stores in the United States and Canada. We believe that we have a distinct competitive advantage in serving these customers as a result of our extensive selection of distinctive and hard-to-find specialty and center-of-the-plate food products, our product knowledge and our customer service.

We define specialty food products as gourmet foods and ingredients that are of the highest grade, quality or style as measured by their uniqueness, exotic origin or particular processing method. Our product portfolio includes over 34,000 stock-keeping units ( SKUs ) from more than 1,700 different suppliers and is comprised primarily of imported and domestic specialty food products, such as artisan charcuterie, specialty cheeses, unique oils and vinegars, truffles, caviar, chocolate and pastry products. We also offer an extensive line of center-of-the-plate products, including custom cut beef, seafood and hormone-free poultry, as well as broadline food products, such as cooking oils, butter, eggs, milk and flour. When marketing our products to our customers, we focus our efforts on chefs, and we believe that, by offering a wide selection of both distinctive and hard-to-find products, together with center-of-the-plate proteins and staple broadline food products, we are able to differentiate ourselves from larger, traditional broadline foodservice distributors, while simultaneously enabling our customers to utilize us as their primary foodservice distributor. Additionally, as a result of our acquisition of Allen Brothers in December 2013, we market certain of our center-of-the-plate products directly to consumers through a mail and e-commerce platform.

Since the formation of our predecessor in 1985, we have expanded our distribution network, product selection and customer base both organically and through acquisitions. From December 30, 2011 to December 25, 2015, our net revenues increased from approximately \$401 million to approximately \$1,059 million. During these periods and in prior years, our sales to both new and existing customers have increased as a result of an increase in the breadth and depth of our product portfolio, our commitment to customer service, the efforts of our experienced and sophisticated sales professionals, the increased use of technology in the operations and management of our business and our ongoing consolidation of the fragmented specialty foodservice distribution industry. Since April 2012, we have completed seven acquisitions which have increased our penetration in existing markets, expanded our footprint into new markets and/or enhanced our product capabilities. The up-front cash purchase prices for these seven acquisitions ranged from \$2.0 million to \$123.9 million, resulting in aggregate up-front cash consideration of more than \$275.0 million, which we funded with borrowings under our existing senior secured credit facilities, a portion of which we repaid with proceeds from the issuance of \$125.0 million of senior secured notes in April 2013 and April 2015, and the proceeds of a common stock offering completed in September 2013.

Excluding our direct-to-consumer business, we currently serve more than 26,000 customer locations in our fifteen primary geographic markets across the United States and Canada, including New York, Washington, D.C., Los Angeles, San Francisco, Las Vegas, Miami, Portland, Seattle, Columbus, Cincinnati, Chicago, Sacramento, Vancouver, Edmonton and Toronto. By leveraging an experienced and sophisticated sales force of approximately 416 sales and customer service professionals, we maintain collaborative relationships with thousands of chefs while also acting as a critical marketing arm and route-to-market for many of our suppliers. We operate 25 distribution centers and provide service six days a week in many of our service areas, utilizing our fleet of delivery trucks to fill our customers' orders.

## TABLE OF CONTENTS

### **GENERAL DESCRIPTION OF SECURITIES WE MAY SELL**

We may offer and sell, at any time and from time to time:

- shares of our common stock, par value \$0.01 per share;
- shares of our preferred stock, par value \$0.01 per share;
- our debt securities, in one or more series, which may be senior debt securities or subordinated debt securities;
- warrants to purchase any of the other securities that may be sold under this prospectus; or
- any combination of these securities.

The terms of any securities we offer will be determined at the time of sale. We may issue debt securities that are exchangeable for or convertible into common stock or any of the other securities that may be sold under this prospectus. When particular securities are offered, a supplement to this prospectus will be filed with the SEC, which will describe the terms of the offering and sale of the offered securities.

### **USE OF PROCEEDS**

We will retain broad discretion over the use of the net proceeds from the sale of the securities offered by us hereby. Unless otherwise indicated in any prospectus supplement, we intend to use the net proceeds from the sale by us of the securities under this prospectus for general corporate purposes, which may include the repayment or refinancing of all or a portion of any indebtedness outstanding at a particular time, increasing our working capital, acquisitions and capital expenditures. Pending the application of the net proceeds from the sale of securities offered by us hereby, we expect to invest the proceeds in short-term, interest bearing instruments or other investment-grade securities. We will not receive any net proceeds from the sale of shares by selling stockholders.

### **SELLING STOCKHOLDERS**

This prospectus also relates to the possible resale by certain of our current and former executive officers, employees and directors, who we refer to in this prospectus as the selling stockholders, of up to 2,000,000 shares of our common stock that were issued and outstanding prior to the original date of filing of the registration statement of which this prospectus is a part. The selling stockholders originally acquired the shares of our common stock included in this prospectus through (1) several private placements of membership interests in our predecessor company that were converted into shares of our common stock in connection with the conversion of that predecessor company to The Chefs Warehouse, Inc. in connection with our initial public offering, (2) open-market acquisitions or (3) issuances of shares of our common stock pursuant to our 2011 Omnibus Equity Incentive Plan. Information about the selling stockholders, where applicable, including their identities and the number of shares of common stock to be registered on their behalf, will be set forth in a prospectus supplement, or in documents incorporated by reference into this prospectus that we file with the SEC. The selling stockholders shall not sell any shares of our common stock pursuant to this prospectus until we have identified such selling stockholders and the shares being offered for resale by such selling stockholders in a subsequent prospectus supplement. However, the selling stockholders may sell or transfer all or a portion of their shares of our common stock pursuant to any available exemption from the registration requirements of the Securities Act.

TABLE OF CONTENTS**RATIO OF EARNINGS TO FIXED CHARGES**

Set forth below is our ratio of earnings to fixed charges for the periods indicated:

	<b>THREE MONTHS ENDED</b>			<b>FISCAL YEAR ENDED</b>		
	<b>MARCH</b>	<b>DECEMBER</b>	<b>DECEMBER</b>	<b>DECEMBER</b>	<b>DECEMBER</b>	<b>DECEMBER</b>
	<b>25, 2016</b>	<b>25, 2015</b>	<b>26, 2014</b>	<b>24, 2013</b>	<b>28, 2012</b>	<b>30, 2011</b>
Ratio of earnings to fixed charges	1.47x	2.97x	3.67x	4.65x	7.79x	1.91x

For purposes of calculating the ratio of earnings to fixed charges, earnings consists of pre-tax income from continuing operations; plus fixed charges; minus capitalized interest. Fixed charges is the sum of expensed and capitalized interest and amortized premiums, discounts and capitalized expenses related to indebtedness.

As of the date of this prospectus, we have no preferred stock outstanding and, accordingly, the ratio of earnings to combined fixed charges and preferred stock dividends is the same as to the ratio of earnings to fixed charges and is not disclosed separately.

**DESCRIPTION OF CAPITAL STOCK**

As of the date of this prospectus, our Certificate of Incorporation authorizes us to issue 100,000,000 shares of common stock, par value \$0.01 per share, and 5,000,000 shares of preferred stock, par value \$0.01 per share. As of June 1, 2016, 26,420,208 shares of common stock were outstanding and no shares of preferred stock were outstanding.

The following summary describes the material terms of our capital stock. The description of capital stock is qualified by reference to our Certificate of Incorporation and our Bylaws, which are incorporated by reference as exhibits into the registration statement of which this prospectus is a part.

**Common Stock**

Holders of our common stock, which has a par value of \$0.01, are entitled to one vote for each share held on all matters submitted to a vote of stockholders and do not have cumulative voting rights. Accordingly, holders of a majority of the shares of our common stock entitled to vote in any election of directors may elect all of the directors standing for election. Holders of our common stock are entitled to receive ratably such dividends, if any, as may be declared by our board of directors out of funds legally available therefor, subject to any preferential dividend rights of outstanding preferred stock. Upon our liquidation, dissolution or winding up, the holders of our common stock are entitled to receive ratably our net assets available after the payment of all debts and other liabilities and subject to the prior rights of any outstanding preferred stock. Holders of our common stock have no preemptive, subscription, redemption or conversion rights. The rights, preferences and privileges of holders of our common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of preferred stock which we may designate and issue in the future.

**Preferred Stock**

Our board of directors is authorized, subject to any limitations prescribed by law, without stockholder approval, to issue shares of preferred stock in one or more series at any time or from time to time. Each such series of preferred

stock will have rights, preferences, privileges and restrictions, including voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences, as will be determined by our board of directors.

Our board of directors could authorize the issuance of shares of preferred stock with terms and conditions which could have the effect of discouraging a takeover or other transaction that might involve a premium price for holders of shares of our common stock or which holders of our common stock might believe to be in their best interests.

#### **Certain Anti-Takeover Matters**

##### *Delaware Business Combination Statute*

Under Section 203 of the General Corporation Law of the State of Delaware, or the DGCL, a corporation is prohibited from engaging in any business combination with a stockholder who, together with its affiliates or

## TABLE OF CONTENTS

associates, owns (or who is an affiliate or associate of the corporation and within a three-year period did own) 15% or more of the corporation's outstanding voting stock, or an interested stockholder, for a three-year period following the time the stockholder became an interested stockholder, unless:

- prior to the time the stockholder became an interested stockholder, the board of directors of the corporation approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;
- the interested stockholder owned at least 85% of the voting stock of the corporation, excluding specified shares, upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder; or
- at or subsequent to the time the stockholder became an interested stockholder, the business combination is approved by the board of directors of the corporation and authorized by the affirmative vote, at an annual or special meeting, and not by written consent, of at least two-thirds of the outstanding voting shares of the corporation, excluding shares held by that interested stockholder.

A business combination generally includes:

- mergers and consolidations with or caused by an interested stockholder;
- sales or other dispositions of 10% or more of the assets of a corporation to an interested stockholder;
- specified transactions resulting in the issuance or transfer to an interested stockholder of any capital stock of a corporation or its subsidiaries; and
- other transactions resulting in a disproportionate financial benefit to an interested stockholder.

The provisions of Section 203 of the DGCL do not apply to a corporation if, subject to certain requirements, the certificate of incorporation or bylaws of the corporation contain a provision expressly electing not to be governed by the provisions of the statute or the corporation does not have voting stock listed on a national securities exchange or held of record by more than 2,000 stockholders.

Because we have opted out of Section 203 of the DGCL in our Certificate of Incorporation, the statute will not apply to business combinations involving us.

### ***Provisions of our Certificate of Incorporation and Bylaws***

Under our Certificate of Incorporation, any vacancy on our board of directors, however occurring, including a vacancy resulting from an enlargement of the board, may only be filled by vote of a majority of the directors then serving, or by the sole remaining director. The limitations on filling of vacancies could have the effect of making it more difficult for a third party to acquire, or of discouraging a third party from acquiring, control of us.

Our Certification of Incorporation also provides that any action required or permitted to be taken by our stockholders at an annual meeting or special meeting of stockholders may be taken only if it is properly brought before such meeting and may not be taken by written consent in lieu of a meeting. Our Bylaws provide that special meetings of the stockholders may only be called by the chairman of the board of directors, the chief executive officer, the secretary, or the board of directors. Under our Bylaws, in order for any matter to be considered properly brought before a meeting, a stockholder must comply with certain requirements regarding advance notice to the company. The foregoing provisions could have the effect of delaying until the next stockholders meeting stockholder actions which are favored by the holders of a majority of our outstanding voting securities. These provisions also may discourage another person or entity from making a tender offer for our common stock because such person or entity, even if it acquired a majority of our outstanding voting securities, would be able to take action as a stockholder (such as electing new directors or approving a merger) only at a duly called stockholders meeting and not by written consent.



Edgar Filing: Chefs' Warehouse, Inc. - Form S-3

The DGCL provides, generally, that the affirmative vote of a majority of the shares entitled to vote on any matter is required to amend a corporation's certificate of incorporation or bylaws, unless a corporation's certificate of incorporation or bylaws, as the case may be, requires a greater percentage. Our Certificate of Incorporation does not require a greater percentage.

## TABLE OF CONTENTS

### **Listing**

Our common stock is listed on The NASDAQ Global Select Market under the symbol CHEF.

### **Transfer Agent and Registrar**

We have appointed American Stock Transfer & Trust Company, LLC to be the transfer agent and registrar for our common stock.

### **DESCRIPTION OF WARRANTS**

The following description, together with the additional information we include in any prospectus supplement, is only a summary of the material terms and provisions of the warrants that we may offer under this prospectus, which consist of warrants to purchase common stock, preferred stock or debt securities in one or more series. Warrants may be offered independently or together with common stock, preferred stock or debt securities offered by any prospectus supplement, and may be attached to or separate from those securities. While the terms we have summarized below may generally apply to any future warrants we may offer under this prospectus, we will describe the particular terms of any warrants that we may offer in more detail in a prospectus supplement. The terms of any warrants we offer under a prospectus supplement may differ from the terms we describe below.

We will issue the warrants under a warrant agreement which we will enter into with a warrant agent to be selected by us. We will file forms of the warrant agreements and the related warrant certificates for each type of warrant we may offer under this prospectus with the SEC and such documents shall be incorporated into the registration statement on Form S-3 of which this prospectus is a part. We urge you to read the prospectus supplements related to the warrants that we issue under this prospectus, as well as the complete warrant agreements and related warrant certificates that contain the terms of the warrants.

We use the term *warrant agreement* to refer to any of these warrant agreements. We use the term *warrant agent* to refer to the warrant agent under any of these warrant agreements. The warrant agent will act solely as an agent of ours in connection with the warrants and will not act as an agent for the holders or beneficial owners of the warrants.

### **General**

As of May 31, 2016, we have no warrants issued and outstanding.

We will describe in the applicable prospectus supplement the terms relating to a series of warrants. If warrants for the purchase of debt securities are offered, the prospectus supplement will describe the terms of such warrants, including, to the extent applicable:

- the offering price and the aggregate number of warrants offered;
- the designation, aggregate principal amount, currencies, denominations and terms of the series of debt securities that can be purchased if a holder exercises a warrant;
- the designation and terms of any series of debt securities with which the warrants are being offered and the number of warrants offered with each such debt security;
- the date on and after which the holder of the warrants can transfer them separately from the related series of debt securities;
- the principal amount of the series of debt securities that can be purchased if a holder exercises a warrant and the price at which and currencies in which such principal amount may be purchased upon exercise;
- the terms of any rights to redeem or call the warrants;

Edgar Filing: Chefs' Warehouse, Inc. - Form S-3

- the date on which the right to exercise the warrants begins and the date on which such right expires;
- federal income tax consequences of holding or exercising the warrants; and
- any other specific terms, preferences, rights or limitations of, or restrictions on, the warrants.

## TABLE OF CONTENTS

If warrants for the purchase of common stock or preferred stock are offered, the prospectus supplement will describe the terms of such warrants, including, to the extent applicable:

- the offering price and the aggregate number of warrants offered;
- the total number of shares that can be purchased if a holder of the warrants exercises them and, in the case of warrants for preferred stock, the designation, total number and terms of the series of preferred stock that can be purchased upon exercise;
- the designation and terms of any series of preferred stock with which the warrants are being offered and the number of warrants being offered with each share of common stock or preferred stock;
- the date on and after which the holder of the warrants can transfer them separately from the related common stock or series of preferred stock;
- the number of shares of common stock or preferred stock that can be purchased if a holder exercises the warrant and the price at which such common stock or preferred stock may be purchased upon exercise, including, if applicable, any provisions for changes to or adjustments in the exercise price and in the securities or other property receivable upon exercise;
- the date on which the right to exercise the warrants begins and the date on which that right expires;
- federal income tax consequences of holding or exercising the warrants; and
- any other specific terms, preferences, rights or limitations of, or restrictions on, the warrants.

Until any warrants to purchase common stock or preferred stock are exercised, holders of the warrants will not have any rights of holders of the underlying common stock or preferred stock, including any rights to receive dividends or to exercise any voting rights, except to the extent set forth under **Description of Warrants—Warrant Adjustments** below.

### **Exercise of Warrants; Amendments; Supplements to the Warrant Agreements**

We will describe in the applicable prospectus supplement the manner in which a holder of warrants may exercise them and the manner in which we may amend or supplement a warrant agreement.

### **Warrant Adjustments**

The applicable prospectus supplement will indicate the circumstances under which the exercise price of, and the number of securities covered by, a common stock warrant or preferred stock warrant may be adjusted proportionately if we subdivide or combine our common stock or preferred stock, as applicable.

## **DESCRIPTION OF DEBT SECURITIES**

We summarize below some of the provisions that will apply to the debt securities unless the applicable prospectus supplement provides otherwise. This summary may not contain all information that is important to you. The complete terms of the debt securities will be contained in the applicable notes. The notes will be included or incorporated by reference as exhibits to the registration statement of which this prospectus is a part. You should read the provisions of the notes. You should also read the prospectus supplement, which will contain additional information and which may update or change some of the information below.

### **General**

We will issue any senior notes under a senior indenture which we will enter into with the trustee named in the senior indenture. We will issue any subordinated notes under a subordinated indenture which we will enter into with the trustee named in the subordinated indenture. We have filed forms of these documents as exhibits to the registration statement of which this prospectus is a part. We use the term **indentures** to refer to both the senior indenture and the subordinated indenture. The indentures will be qualified under the Trust Indenture Act of 1939, as amended. We use

the term "trustee" to refer to either the senior trustee or the subordinated trustee, as applicable.

The following summaries of material provisions of the senior notes, the subordinated notes and the indentures are subject to, and qualified in their entirety by reference to, all the provisions of the indenture applicable to a

9

TABLE OF CONTENTS

particular series of debt securities. We urge you to read the prospectus supplement or free writing prospectus related to each series of debt securities that we sell under this prospectus, as well as the complete indentures, and any supplements thereto, that contain the terms of the debt securities of that series. Except as we may otherwise indicate, the terms of the senior indenture and the subordinated indenture are identical.

We may issue, from time to time, debt securities, in one or more series, that will consist of either our senior debt ( senior debt securities ), our senior subordinated debt, our subordinated debt or our junior subordinated debt (any senior subordinated debt, subordinated debt, and junior subordinated debt we issue from time to time under the subordinated indenture, collectively, the subordinated debt securities ). Debt securities, whether senior, senior subordinated, subordinated or junior subordinated, may be issued as convertible debt securities or exchangeable debt securities.

The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part do not limit the amount of debt securities which we may issue, including senior debt securities, senior subordinated debt securities, subordinated debt securities and junior subordinated debt securities, and do not limit us from issuing any other debt, including secured and unsecured debt. We may issue debt securities up to an aggregate principal amount as we may authorize from time to time which debt securities may be denominated in any currency or currency unit designated by us. The terms of each series of debt securities will be established by or pursuant to (a) a supplemental indenture, (b) a resolution of our board of directors, or (c) an officers certificate pursuant to authority granted under a resolution of our board of directors. The prospectus supplement will describe the terms of any debt securities being offered, including:

- the title of the debt securities;
- the limit, if any, upon the aggregate principal amount or issue price of the debt securities of a series;
- the ranking of the specific series of debt securities relative to our and our subsidiaries' other outstanding indebtedness;
- the price or prices at which the debt securities will be issued;
- the designation, aggregate principal amount and authorized denominations of the debt securities;
- the issue date or dates of the series and the maturity date of the series;
- whether the securities will be issued at par or at a premium over or a discount from their face amount;
- the interest rate, if any, and the method for calculating the interest rate and basis upon which interest shall be calculated;
- the right, if any, to extend interest payment periods and the duration of the extension;
- the interest payment dates and the record dates for the interest payments;
- any mandatory or optional redemption terms or prepayment, conversion, sinking fund or exchangeability or convertibility provisions;
- the currency of denomination of the debt securities;
- the place where we will pay principal, premium, if any, and interest, if any, and the place where the debt securities may be presented for transfer;
- if payments of principal of, premium, if any, or interest, if any, on the debt securities will be made in one or more currencies or currency units other than that or those in which the debt securities are denominated, the manner in which the exchange rate with respect to these payments will be determined;
- if other than denominations of \$1,000 or multiples of \$1,000, the denominations the debt securities will be issued in;
- whether the debt securities will be issued in the form of global securities or certificates;
- the applicability of and additional provisions, if any, relating to the defeasance of the debt securities;

## TABLE OF CONTENTS

- the portion of principal amount of the debt securities payable upon declaration of acceleration of the maturity date, if other than the principal amount;
- the currency or currencies, if other than the currency of the United States, in which principal and interest will be paid;
- the dates on which premium, if any, will be paid;
- any addition to or change in the Events of Default described in this prospectus or in the indenture with respect to the debt securities and any change in the acceleration provisions described in this prospectus or in the indenture with respect to the debt securities;
- any addition to or change in the covenants described in the prospectus or in the indenture with respect to the debt securities;
- our right, if any, to defer payment of interest and the maximum length of this deferral period; and
- other specific terms, including any additional events of default or covenants.

We may issue debt securities at a discount to their stated principal amount. Even if we do not issue the debt securities with a discount to their stated principal amount, for United States federal income tax purposes the debt securities may be deemed to have been issued with a discount because of certain interest payment characteristics. We will describe in any applicable prospectus supplement the material United States federal income tax considerations applicable to debt securities issued at a discount or deemed to be issued at a discount, and will describe any material United States federal income tax considerations that may be applicable to the particular debt securities.

The debt securities will represent our general obligations. We are a non-operating holding company and almost all of the operating assets of us and our consolidated subsidiaries are owned by our subsidiaries. We rely primarily on dividends from such subsidiaries to meet our obligations. We are a legal entity separate and distinct from our subsidiaries. Because we are a holding company, our right to participate in any distribution of assets of any subsidiary upon the subsidiary's liquidation or reorganization or otherwise is subject to the prior claims of creditors of the subsidiary, except to the extent we may ourselves be recognized as a creditor of that subsidiary. Accordingly, the debt securities will be effectively subordinated to all existing and future liabilities of our subsidiaries, and holders of the debt securities should look only to our assets for payments on the debt securities.

### **Senior Debt Securities**

Senior debt securities will rank equally and pari passu with all of our other unsecured and unsubordinated debt from time to time outstanding.

### **Subordinated Debt Securities**

The subordinated debt securities will be subordinate and junior in priority of payment to certain of our other indebtedness to the extent described in a prospectus supplement or free writing prospectus, and the subordinated indenture filed as an exhibit to the registration statement of which this prospectus is a part may be modified by a supplemental indenture to reflect such subordination provisions.

### **Conversion or Exchange Rights**

Debt securities may be convertible into or exchangeable for our other securities or property. The terms and conditions of conversion or exchange will be set forth in the supplemental indenture, board resolution or officers' certificate related to that series of debt securities and will be described in the relevant prospectus supplement. The terms will include, among others, the following:

- the conversion or exchange price;
- the conversion or exchange period;

Edgar Filing: Chefs' Warehouse, Inc. - Form S-3

- provisions regarding the ability of us or the holder to convert or exchange the debt securities;
- events requiring adjustment to the conversion or exchange price; and
- provisions affecting conversion or exchange in the event of our redemption of the debt securities.



## TABLE OF CONTENTS

### **Merger, Consolidation or Sale of Assets**

The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part prohibit us from merging into or consolidating with any other person or selling, leasing or conveying substantially all of our assets and the assets of our subsidiaries, taken as a whole, to any person, unless:

- either we are the continuing corporation or the successor corporation or the person which acquires by sale, lease or conveyance substantially all our or our subsidiaries' assets is a corporation organized under the laws of the United States, any state thereof, or the District of Columbia, and expressly assumes the due and punctual payment of the principal of, and premium, if any, and interest, if any, on all the debt securities and the performance of every covenant of the indenture to be performed or observed by us, by supplemental indenture satisfactory to the trustee, executed and delivered to the trustee by such corporation;
- immediately after giving effect to such transactions, no Event of Default described under the caption Events of Default and Remedies below or event which, after notice or lapse of time or both would become an Event of Default, has happened and is continuing; and
- we have delivered to the trustee an officers' certificate and an opinion of counsel each stating that such transaction and such supplemental indenture comply with the indenture provisions relating to merger, consolidation and sale of assets.

The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part provide that upon any consolidation or merger with or into any other person or any sale, conveyance, lease, or other transfer of all or substantially all of our or our subsidiaries' assets to any person, the successor person shall succeed, and be substituted for, us under the indenture and each series of outstanding debt securities, and we shall be relieved of all obligations under the indenture and each series of outstanding debt securities to the extent we were the predecessor person.

### **Events of Default and Remedies**

When we use the term Event of Default in the indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part with respect to the debt securities of any series, we mean:

- (1) default in paying interest on the debt securities when it becomes due and the default continues for a period of 30 days or more;
- (2) default in paying principal, or premium, if any, on the debt securities when due;
- (3) default is made in the payment of any sinking or purchase fund or analogous obligation when the same becomes due, and such default continues for 30 days or more;
- (4) default in the performance, or breach, of any covenant or warranty in the indenture (other than defaults specified in clause (1), (2) or (3) above) and the default or breach continues for a period of 60 days or more after we receive written notice of such default from the trustee or we and the trustee receive notice from the holders of at least 25% in aggregate principal amount of the outstanding debt securities of the series;
- (5) certain events of bankruptcy, insolvency, reorganization, administration or similar proceedings with respect to us have occurred; and
- (6) any other Events of Default provided with respect to debt securities of that series that are set forth in the applicable prospectus supplement accompanying this prospectus.

No Event of Default with respect to a particular series of debt securities (except as to certain events of bankruptcy, insolvency or reorganization) necessarily constitutes an Event of Default with respect to any other series of debt securities. Unless otherwise provided by the terms of an applicable series of debt securities, if an Event of Default under the indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part occurs with respect to the debt securities of any series and is continuing, then the trustee or the holders of not less than 51% of the aggregate principal amount of the outstanding debt securities of that series may by written notice

require us to repay immediately the entire principal amount of the outstanding debt securities of that series (or such lesser amount as may be provided in the terms of the securities), together with

12

TABLE OF CONTENTS

all accrued and unpaid interest and premium, if any. In the case of an Event of Default resulting from certain events of bankruptcy, insolvency or reorganization, the principal (or such specified amount) of and accrued and unpaid interest, if any, on all outstanding debt securities will become and be immediately due and payable without any declaration or other act on the part of the trustee or any holder of outstanding debt securities. We refer you to the prospectus supplement relating to any series of debt securities that are discount securities for the particular provisions relating to acceleration of a portion of the principal amount of such discount securities upon the occurrence of an Event of Default.

After a declaration of acceleration, the holders of a majority in aggregate principal amount of outstanding debt securities of any series may rescind this accelerated payment requirement if all existing Events of Default, except for nonpayment of the principal on the debt securities of that series that has become due solely as a result of the accelerated payment requirement, have been cured or waived and if the rescission of acceleration would not conflict with any judgment or decree. The holders of a majority in aggregate principal amount of the outstanding debt securities of any series also have the right to waive past defaults, except a default in paying principal or interest on any outstanding debt security, or in respect of a covenant or a provision that cannot be modified or amended without the consent of all holders of the debt securities of that series.

The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part provide that no holder of any debt security issued under the indenture may seek to institute a proceeding with respect to the indenture unless such holder has previously given written notice to the trustee of a continuing Event of Default, the holders of not less than 51% in aggregate principal amount of the outstanding debt securities of the series have made a written request to the trustee to institute proceedings in respect of the Event of Default, the holder or holders have offered reasonable indemnity to the trustee and the trustee has failed to institute such proceeding within 60 days after it received this notice. In addition, within this 60-day period the trustee must not have received directions inconsistent with this written request by holders of a majority in aggregate principal amount of the outstanding debt securities of that series. These limitations do not apply, however, to a suit instituted by a holder of a debt security for the enforcement of the payment of principal, interest or any premium on or after the due dates for such payment.

The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part provide that during the existence of an Event of Default actually known to a responsible officer of the trustee, the trustee is required to exercise the rights and powers vested in it under the applicable indenture and use the same degree of care and skill in its exercise as a prudent person would under the circumstances in the conduct of that person's own affairs. If an Event of Default has occurred and is continuing, the trustee is not under any obligation to exercise any of its rights or powers at the request or direction of any of the holders unless the holders have offered to the trustee security or indemnity reasonably satisfactory to the trustee. Subject to certain provisions, the holders of a majority in aggregate principal amount of the outstanding debt securities of any series have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee, or exercising any trust, or power conferred on the trustee.

The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part provide that the trustee will, within 90 days after receiving notice of any default, give notice of the default to the holders of the debt securities of that series, unless the default was already cured or waived. Unless there is a default in paying principal, interest or any premium when due, the trustee can withhold giving notice to the holders if it determines in good faith that the withholding of notice is in the interest of the holders of the debt securities. In the case of a default specified in clause (4) above describing Events of Default, no notice of default to the holders of the debt securities of that series will be given until 60 days after the occurrence of the Event of Default.

The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part require us, within 120 days after the end of our fiscal year, to furnish to the trustee a statement as to compliance with

the indenture. The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part provide that the trustee may withhold notice to the holders of debt securities of any series of any Event of Default (except in payment on any debt securities of that series) with respect to debt securities of that series if it in good faith determines that withholding notice is in the interest of the holders of those debt securities.

## TABLE OF CONTENTS

### **Modification and Waiver**

The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part may be amended or modified without the consent of any holder of debt securities in order to:

- evidence a successor to the trustee;
- cure ambiguities, defects or inconsistencies;
- provide for the assumption of our obligations in the case of a merger or consolidation or transfer of all or substantially all of our assets that complies with the covenant described under —Merger, Consolidation or Sale of Assets ;
- make any change that would provide any additional rights or benefits to the holders of the debt securities of a series;
- secure the debt securities of a series;
- establish the form or forms of debt securities of any series;
- add additional Events of Default with respect to the debt securities of any series;
- add additional provisions as may be expressly permitted by the Trust Indenture Act;
- maintain the qualification of the indenture under the Trust Indenture Act; or
- make any change that does not adversely affect in any material respect the interests of any holder of the debt securities of a series.

The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part provide that other amendments and modifications of the indenture or the debt securities issued may be made with the consent of the holders of not less than a majority in aggregate principal amount of the outstanding debt securities of each series affected by the amendment or modification. However, no modification or amendment may, without the consent of the holder of each outstanding debt security affected:

- change the maturity date or the stated payment date of any payment of premium or interest payable on the debt securities;
- reduce the principal amount, or extend the fixed maturity, of the debt securities;
- change the method of computing the amount of principal or any interest of any debt security;
- change or waive the redemption or repayment provisions of the debt securities;
- change the currency in which principal, any premium or interest is paid or the place of payment;
- reduce the percentage in principal amount outstanding of debt securities of any series which must consent to an amendment, supplement or waiver or consent to take any action;
- impair the right to institute suit for the enforcement of any payment on the debt securities;
- waive a payment default with respect to the debt securities;
- reduce the interest rate or extend the time for payment of interest on the debt securities; or
- adversely affect the ranking or priority of the debt securities of any series.

### **Satisfaction, Discharge and Covenant Defeasance**

The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part provide that we may terminate our obligations under the indenture with respect to the outstanding debt securities of any series, when:

- either:

all debt securities of any series issued that have been authenticated and delivered have been delivered to the trustee for cancellation; or

TABLE OF CONTENTS

all the debt securities of any series issued that have not been delivered to the trustee for cancellation have become due and payable, will become due and payable within one year, or are to be called for redemption within one year and we have made arrangements satisfactory to the trustee for the giving of notice of redemption by such trustee in our name and at our expense, and in each case, we have irrevocably deposited or caused to be deposited with the trustee sufficient funds to pay and discharge the entire indebtedness on the series of debt securities; and

- we have paid or caused to be paid all other sums then due and payable under the indenture; and we have delivered to the trustee an officers' certificate and an opinion of counsel, each stating that all
- conditions precedent under the indenture relating to the satisfaction and discharge of the indenture have been complied with.

The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part provide that we may elect to have our obligations under the indenture discharged with respect to the outstanding debt securities of any series ( legal defeasance ). Legal defeasance means that we will be deemed to have paid and discharged the entire indebtedness represented by the outstanding debt securities of such series under the indenture, except for:

- the rights of holders of the debt securities to receive principal, interest and any premium when due; our obligations with respect to the debt securities concerning issuing temporary debt securities, registration
- of transfer of debt securities, mutilated, destroyed, lost or stolen debt securities and the maintenance of an office or agency for payment for security payments held in trust;
- the rights, powers, trusts, duties and immunities of the trustee; and
- the defeasance provisions of the indenture.

In addition, the indentures in the forms initially filed as exhibits to the registration statement, of which this prospectus is a part, provide that we may elect to have our obligations released with respect to certain covenants in the indenture ( covenant defeasance ). If we so elect, any failure to comply with these obligations will not constitute a default or an Event of Default with respect to the debt securities of any series. In the event covenant defeasance occurs, certain events, not including non-payment, bankruptcy and insolvency events, described under Events of Default and Remedies will no longer constitute an Event of Default for that series.

In order to exercise either legal defeasance or covenant defeasance with respect to outstanding debt securities of any series:

- we must irrevocably have deposited or caused to be deposited with the trustee as trust funds for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to the benefits of the holders of the debt securities of a series:
  - money in an amount; or U.S. government obligations (or equivalent government obligations in the case of debt securities
  - denominated in other than U.S. dollars or a specified currency) that will provide, not later than one day before the due date of any payment, money in an amount; or
  - a combination of money and U.S. government obligations (or equivalent government obligations, as applicable),

in each case sufficient, in the written opinion (with respect to U.S. or equivalent government obligations or a combination of money and U.S. or equivalent government obligations, as applicable) of a nationally recognized firm of independent public accountants to pay and discharge, and which shall be applied by the trustee to pay and discharge, all of the principal (including mandatory sinking fund payments), interest and any premium at due date or maturity;

- in the case of legal defeasance, we have delivered to the trustee an opinion of counsel stating that, under then applicable Federal income tax law, the holders of the debt securities of that series will not recognize income,

gain or loss for Federal income tax purposes as a result of the deposit, defeasance and discharge to be effected and will be subject to the same Federal income tax as would be the case if the deposit, defeasance and discharge did not occur;

## TABLE OF CONTENTS

- in the case of covenant defeasance, we have delivered to the trustee an opinion of counsel to the effect that the holders of the debt securities of that series will not recognize income, gain or loss for Federal income tax purposes as a result of the deposit and covenant defeasance to be effected and will be subject to the same Federal income tax as would be the case if the deposit and covenant defeasance did not occur;
- no Event of Default or default with respect to the outstanding debt securities of that series has occurred and is continuing at the time of such deposit after giving effect to the deposit or, in the case of legal defeasance, no default relating to bankruptcy or insolvency has occurred and is continuing at any time on or before the 91st day after the date of such deposit, it being understood that this condition is not deemed satisfied until after the 91st day;
- the legal defeasance or covenant defeasance will not cause the trustee to have a conflicting interest within the meaning of the Trust Indenture Act, assuming all debt securities of a series were in default within the meaning of such Act;
- the legal defeasance or covenant defeasance will not result in a breach or violation of, or constitute a default under, any other agreement or instrument to which we are a party;
- if prior to the stated maturity date, notice shall have been given in accordance with the provisions of the indenture;
- the legal defeasance or covenant defeasance will not result in the trust arising from such deposit constituting an investment company within the meaning of the Investment Company Act of 1940, as amended, unless the trust is registered under such Act or exempt from registration; and
- we have delivered to the trustee an officers' certificate and an opinion of counsel stating that all conditions precedent with respect to the legal defeasance or covenant defeasance have been complied with.

### **Covenants**

We will set forth in the applicable prospectus supplement any restrictive covenants applicable to any issue of debt securities.

### **Paying Agent and Registrar**

The trustee will initially act as paying agent and registrar for all debt securities. We may change the paying agent or registrar for any series of debt securities without prior notice, and we or any of our subsidiaries may act as paying agent or registrar.

### **Forms of Securities**

Each debt security will be represented either by a certificate issued in definitive form to a particular investor or by one or more global securities representing the entire issuance of the series of debt securities. Certificated securities will be issued in definitive form and global securities will be issued in registered form. Definitive securities name you or your nominee as the owner of the security, and in order to transfer or exchange these securities or to receive payments other than interest or other interim payments, you or your nominee must physically deliver the securities to the trustee, registrar, paying agent or other agent, as applicable. Global securities name a depository or its nominee as the owner of the debt securities represented by these global securities. The depository maintains a computerized system that will reflect each investor's beneficial ownership of the securities through an account maintained by the investor with its broker/dealer, bank, trust company or other representative, as we explain more fully below.

### **Global Securities**

We may issue the registered debt securities in the form of one or more fully registered global securities that will be deposited with a depository or its custodian identified in the applicable prospectus supplement and registered in the name of that depository or its nominee. In those cases, one or more registered global securities will be issued in a



denomination or aggregate denominations equal to the portion of the aggregate principal or face

16

TABLE OF CONTENTS

amount of the securities to be represented by registered global securities. Unless and until it is exchanged in whole for securities in definitive registered form, a registered global security may not be transferred except as a whole by and among the depositary for the registered global security, the nominees of the depositary or any successors of the depositary or those nominees.

If not described below, any specific terms of the depositary arrangement with respect to any securities to be represented by a registered global security will be described in the prospectus supplement relating to those securities. We anticipate that the following provisions will apply to all depositary arrangements.

Ownership of beneficial interests in a registered global security will be limited to persons, called participants, that have accounts with the depositary or persons that may hold interests through participants. Upon the issuance of a registered global security, the depositary will credit, on its book-entry registration and transfer system, the participants accounts with the respective principal or face amounts of the securities beneficially owned by the participants. Any dealers, underwriters or agents participating in the distribution of the securities will designate the accounts to be credited. Ownership of beneficial interests in a registered global security will be shown on, and the transfer of ownership interests will be effected only through, records maintained by the depositary, with respect to interests of participants, and on the records of participants, with respect to interests of persons holding through participants. The laws of some states may require that some purchasers of securities take physical delivery of these securities in definitive form. These laws may impair your ability to own, transfer or pledge beneficial interests in registered global securities.

The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part provide that so long as the depositary, or its nominee, is the registered owner of a registered global security, that depositary or its nominee, as the case may be, will be considered the sole owner or holder of the securities represented by the registered global security for all purposes under the indenture. Except as described below, owners of beneficial interests in a registered global security will not be entitled to have the securities represented by the registered global security registered in their names, will not receive or be entitled to receive physical delivery of the securities in definitive form and will not be considered the owners or holders of the securities under the indenture. Accordingly, each person owning a beneficial interest in a registered global security must rely on the procedures of the depositary for that registered global security and, if that person is not a participant, on the procedures of the participant through which the person owns its interest, to exercise any rights of a holder under the indenture. We understand that under existing industry practices, if we request any action of holders or if an owner of a beneficial interest in a registered global security desires to give or take any action that a holder is entitled to give or take under the indenture, the depositary for the registered global security would authorize the participants holding the relevant beneficial interests to give or take that action, and the participants would authorize beneficial owners owning through them to give or take that action or would otherwise act upon the instructions of beneficial owners holding through them.

Principal, premium, if any, and interest payments on debt securities represented by a registered global security registered in the name of a depositary or its nominee will be made to the depositary or its nominee, as the case may be, as the registered owner of the registered global security. Neither we nor the trustee or any other agent of ours or the trustee will have any responsibility or liability for any aspect of the records relating to payments made on account of beneficial ownership interests in the registered global security or for maintaining, supervising or reviewing any records relating to those beneficial ownership interests.

We expect that the depositary for any of the securities represented by a registered global security, upon receipt of any payment of principal, premium, interest or other distribution of underlying securities or other property to holders on that registered global security, will immediately credit participants accounts in amounts proportionate to their respective beneficial interests in that registered global security as shown on the records of the depositary. We also expect that payments by participants to owners of beneficial interests in a registered global security held through

participants will be governed by standing customer instructions and customary practices, as is now the case with the securities held for the accounts of customers in bearer form or registered in street name, and will be the responsibility of those participants.

If the depository for any of these securities represented by a registered global security is at any time unwilling or unable to continue as depository or ceases to be a clearing agency registered under the Exchange Act, and a successor depository registered as a clearing agency under the Exchange Act is not appointed by us within 90 days, we will issue securities in definitive form in exchange for the registered global security that had been held

## TABLE OF CONTENTS

by the depository. Any securities issued in definitive form in exchange for a registered global security will be registered in the name or names that the depository gives to the trustee or other relevant agent of ours or theirs. It is expected that the depository's instructions will be based upon directions received by the depository from participants with respect to ownership of beneficial interests in the registered global security that had been held by the depository.

Unless we state otherwise in a prospectus supplement or free writing prospectus, the Depository Trust Company ( DTC ) will act as depository for each series of debt securities issued as global securities. DTC has advised us that DTC is a limited-purpose trust company created to hold securities for its participating organizations (collectively, the Participants ) and to facilitate the clearance and settlement of transactions in those securities between Participants through electronic book-entry changes in accounts of its Participants. The Participants include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. Access to DTC's system is also available to other entities such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Participant, either directly or indirectly (collectively, the Indirect Participants ). Persons who are not Participants may beneficially own securities held by or on behalf of DTC only through the Participants or the Indirect Participants. The ownership interests in, and transfers of ownership interests in, each security held by or on behalf of DTC are recorded on the records of the Participants and the Indirect Participants.

### **Governing Law**

The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part and each series of debt securities are governed by, and construed in accordance with, the laws of the State of New York.

### **DESCRIPTION OF UNITS**

We may issue units comprised of one or more of the other securities described in this prospectus in any combination. Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit. Thus, the holder of a unit will have the rights and obligations of a holder of each included security. The unit agreement under which a unit is issued may provide that the securities included in the unit may not be held or transferred separately, at any time or at any time before a specified date. The applicable prospectus supplement may describe:

- the designation and terms of the units and of the securities comprising the units, including whether and under what circumstances those securities may be held or transferred separately;
- any provisions for the issuance, payment, settlement, transfer or exchange of the units or of the securities comprising the units;
- the terms of the unit agreement governing the units;
- United States federal income tax considerations relevant to the units; and
- whether the units will be issued in fully registered global form.

This summary of certain general terms of units and any summary description of units in the applicable prospectus supplement do not purport to be complete and are qualified in their entirety by reference to all provisions of the applicable unit agreement and, if applicable, collateral arrangements and depository arrangements relating to such units. The forms of the unit agreements and other documents relating to a particular issue of units will be filed with the SEC each time we issue units, and you should read those documents for provisions that may be important to you.

## TABLE OF CONTENTS

### **PLAN OF DISTRIBUTION**

#### **Initial Offering and Sale of Securities**

Unless otherwise set forth in a prospectus supplement accompanying this prospectus, we, or the selling stockholders, may sell the securities being offered hereby, from time to time, by one or more of the following methods:

- to or through underwriting syndicates represented by managing underwriters;
- through one or more underwriters without a syndicate for them to offer and sell to the public;
- through dealers or agents;
- to purchasers directly in negotiated sales or in competitively bid transactions; or
- through a combination of any of these methods.

Offerings of securities covered by this prospectus also may be made into an existing trading market for those securities in transactions at other than a fixed price, either:

- on or through the facilities of the NASDAQ or any other securities exchange or quotation or trading service on which those securities may be listed, quoted, or traded at the time of sale; and/or
- to or through a market maker otherwise than on the securities exchanges or quotation or trading services set forth above.

Those at-the-market offerings, if any, will be conducted by dealers acting as principal or agent.

The selling stockholders may also sell their shares of common stock in accordance with Rule 144 of the Securities Act, or any other available exemption, rather than by use of this prospectus.

The prospectus supplement with respect to the offered securities will set forth the terms of the offering of the offered securities, including:

- the name or names of any underwriters, dealers or agents;
- the purchase price of the offered securities and the proceeds to us from such sale;
- any underwriting discounts and commissions or agency fees and other items constituting underwriters' or agents' compensation;
- any initial public offering price and any discounts or concessions allowed or reallocated or paid to dealers; and
- any securities exchange on which such offered securities may be listed.

Any underwriter, agent or dealer involved in the offer and sale of any series of the securities will be named in the prospectus supplement.

The distribution of the securities may be effected from time to time in one or more transactions:

- at fixed prices, which may be changed;
- at market prices prevailing at the time of the sale;
- at varying prices determined at the time of sale; or
- at negotiated prices.

Each prospectus supplement will set forth the manner and terms of an offering of securities including:

- whether that offering is being made to underwriters or through agents or directly;
- the rules and procedures for any auction or bidding process, if used;
- the securities' purchase price or initial public offering price; and
- the proceeds we anticipate from the sale of the securities, if any.



## TABLE OF CONTENTS

### **Sales Through Underwriters**

If underwriters are used in the sale of some or all of the securities covered by this prospectus, the underwriters will acquire the securities for their own account. The underwriters may resell the securities, either directly to the public or to securities dealers, at various times in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. The obligations of the underwriters to purchase the securities will be subject to certain conditions. Unless indicated otherwise in a prospectus supplement, the underwriters will be obligated to purchase all the securities of the series offered if any of the securities are purchased.

Any initial public offering price and any concessions allowed or reallocated to dealers may be changed intermittently.

### **Sales Through Agents**

Unless otherwise indicated in the applicable prospectus supplement, when securities are sold through an agent, the designated agent will agree, for the period of its appointment as agent, to use its best efforts to sell the securities for our or, as applicable, the selling stockholders' account and will receive commissions from us or the selling stockholders as will be set forth in the applicable prospectus supplement.

Securities bought in accordance with a redemption or repayment under their terms also may be offered and sold, if so indicated in the applicable prospectus supplement, in connection with a remarketing by one or more firms acting as principals for their own accounts or as agents for us or, as applicable, the selling stockholders. Any remarketing firm will be identified and the terms of its agreement, if any, with us or the selling stockholders and its compensation will be described in the prospectus supplement. Remarketing firms may be deemed to be underwriters in connection with the securities remarketed by them.

If so indicated in the applicable prospectus supplement, we may authorize agents, underwriters or dealers to solicit offers by certain specified institutions to purchase securities at a price set forth in the prospectus supplement pursuant to delayed delivery contracts providing for payment and delivery on a future date specified in the prospectus supplement. These contracts will be subject only to those conditions set forth in the applicable prospectus supplement, and the prospectus supplement will set forth the commissions payable by us for solicitation of these contracts.

### **Direct Sales**

We, or the selling stockholders, may also sell offered securities directly to institutional investors or others. In this case, no underwriters or agents would be involved.

### **General Information**

Broker-dealers, agents or underwriters may receive compensation in the form of discounts, concessions or commissions from us or the selling stockholders and/or the purchasers of securities for whom such broker-dealers, agents or underwriters may act as agents or to whom they sell as principal, or both (this compensation to a particular broker-dealer might be in excess of customary commissions).

Underwriters, dealers and agents that participate in any distribution of the offered securities may be deemed underwriters within the meaning of the Securities Act, so any discounts or commissions they receive in connection with the distribution may be deemed to be underwriting compensation. Those underwriters and agents may be entitled, under their agreements with us or any selling stockholder, to indemnification by us or a selling stockholder against certain civil liabilities, including liabilities under the Securities Act, or to contribution by us or a selling stockholder to payments that they may be required to make in respect of those civil liabilities. Various of those underwriters or

agents may be customers of, engage in transactions with, or perform services for, us or our affiliates in the ordinary course of business. We will identify any underwriters or agents, and describe their compensation, in a prospectus supplement. Any institutional investors or others that purchase offered securities directly, and then resell the securities, may be deemed to be underwriters, and any discounts or commissions received by them from us or a selling stockholder and any profit on the resale of the securities by them may be deemed to be underwriting discounts and commissions under the Securities Act.



TABLE OF CONTENTS

We will file a supplement to this prospectus, if required, pursuant to Rule 424(b) under the Securities Act, if we enter into any material arrangement with a broker, dealer, agent or underwriter for the sale of securities through a block trade, special offering, exchange distribution or secondary distribution or a purchase by a broker or dealer. Such prospectus supplement will disclose:

- the name of any participating broker, dealer, agent or underwriter;
- the number and type of securities involved;
- the price at which such securities were sold;
- any securities exchanges on which such securities may be listed;
- the commissions paid or discounts or concessions allowed to any such broker, dealer, agent or underwriter where applicable; and
- other facts material to the transaction.

In order to facilitate the offering of certain securities under this prospectus or an applicable prospectus supplement, certain persons participating in the offering of those securities may engage in transactions that stabilize, maintain or otherwise affect the price of those securities during and after the offering of those securities. Specifically, the underwriters of those securities may over-allot or otherwise create a short position in those securities for their own account by selling more of those securities than have been sold to them by us and may elect to cover any such short position by purchasing those securities in the open market.

In addition, the underwriters may stabilize or maintain the price of those securities by bidding for or purchasing those securities in the open market and may impose penalty bids, under which selling concessions allowed to syndicate members or other broker-dealers participating in the offering are reclaimed if securities previously distributed in the offering are repurchased in connection with stabilization transactions or otherwise. The effect of these transactions may be to stabilize or maintain the market price of the securities at a level above that which might otherwise prevail in the open market. The imposition of a penalty bid may also affect the price of securities to the extent that it discourages resales of the securities. No representation is made as to the magnitude or effect of any such stabilization or other transactions. Such transactions, if commenced, may be discontinued at any time.

In order to comply with the securities laws of certain states, if applicable, the securities must be sold in such jurisdictions only through registered or licensed brokers or dealers. In addition, in certain states the securities may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

Rule 15c6-1 under the Exchange Act generally requires that trades in the secondary market settle in three business days, unless the parties to any such trade expressly agree otherwise. Your prospectus supplement may provide that the original issue date for your securities may be more than three scheduled business days after the trade date for your securities. Accordingly, in such a case, if you wish to trade securities on any date prior to the third business day before the original issue date for your securities, you will be required, by virtue of the fact that your securities initially are expected to settle in more than three scheduled business days after the trade date for your securities, to make alternative settlement arrangements to prevent a failed settlement.

This prospectus, the applicable prospectus supplement and any applicable pricing supplement in electronic format may be made available on the Internet sites of, or through other online services maintained by, us and/or one or more of the agents and/or dealers participating in an offering of securities, or by their affiliates. In those cases, prospective investors may be able to view offering terms online and, depending upon the particular agent or dealer, prospective investors may be allowed to place orders online.

Other than this prospectus, the applicable prospectus supplement and any applicable pricing supplement in electronic format, the information on our or any agent's or dealer's website and any information contained in any other website

maintained by any agent or dealer:

- is not part of this prospectus, the applicable prospectus supplement and any applicable pricing supplement or the registration statement of which they form a part;

21

## TABLE OF CONTENTS

- has not been approved or endorsed by us or by any agent or dealer in its capacity as an agent or dealer, except, in each case, with respect to the respective website maintained by such entity; and
- should not be relied upon by investors.

There can be no assurance that we, or the selling stockholders, will sell all or any of the securities offered by this prospectus.

This prospectus may also be used in connection with any issuance of common stock, preferred stock or debt securities upon exercise of a warrant if such issuance is not exempt from the registration requirements of the Securities Act.

In addition, we may issue the securities as a dividend or distribution or in a subscription rights offering to our existing security holders. In some cases, we or dealers acting with us or on our behalf may also purchase securities and reoffer them to the public by one or more of the methods described above. This prospectus may be used in connection with any offering of our securities through any of these methods or other methods described in the applicable prospectus supplement.

## **LEGAL MATTERS**

Unless otherwise specified in the applicable prospectus supplement, the validity of the securities and certain other legal matters relating to the offer and sale of the securities offered hereby will be passed upon for us by Shearman & Sterling LLP, New York, New York.

## **EXPERTS**

The consolidated financial statements of the Company as of December 25, 2015 and December 26, 2014, and for each of the fiscal years in the three-year period ended December 25, 2015, and management's assessment of the effectiveness of internal control over financial reporting as of December 25, 2015, have been incorporated herein by reference to the Company's Annual Report on Form 10-K for the fiscal year ended December 25, 2015 in reliance upon the reports of BDO USA, LLP, an independent registered public accounting firm, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

The audited combined financial statements of Del Monte Capitol Meat Company, T.J. Foodservice Company, Inc. and TJ Seafood, LLC as of December 27, 2014 and December 28, 2013, and for each of the fiscal years in the three-year period ended December 27, 2014 have been incorporated herein by reference to Exhibit 99.1 to the Company's Current Report on Form 8-K/A filed with the SEC on May 20, 2015, in reliance upon the report of BDO USA, LLP, an independent auditor, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

## **WHERE YOU CAN FIND MORE INFORMATION**

We file annual, quarterly and current reports, proxy statements and other information with the SEC. Our SEC filings are available over the Internet at the SEC's website at [www.sec.gov](http://www.sec.gov). You may also read and copy any document we file at the SEC's public reference room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 to obtain information on the operation of the public reference room. We also make available, free of charge, through our website our annual, quarterly and current reports, proxy statements and other information, including amendments thereto, as soon as reasonably practicable after such material is electronically filed with or furnished to the SEC. Our website address is [www.chefswarehouse.com](http://www.chefswarehouse.com). Our website address is provided as an inactive textual reference only. Information contained on or accessible through our website is not part of this prospectus or any applicable prospectus supplement and is therefore not incorporated by reference into this prospectus or any applicable prospectus supplement.



TABLE OF CONTENTS

**INCORPORATION BY REFERENCE**

The SEC allows us to incorporate by reference the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below and any filings we will make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus and prior to the termination of the offering of securities hereby.

The following documents filed with the SEC are incorporated by reference in this prospectus:

1. Our Annual Report on Form 10-K for the year ended December 25, 2015, filed with the SEC on March 4, 2016.
2. Our Quarterly Report on Form 10-Q for the quarter ended March 25, 2016, filed with the SEC on May 4, 2016.
3. Our Definitive Proxy Statement on Schedule 14A filed with the SEC on March 29, 2016.
4. Our Current Reports on Form 8-K filed with the SEC on May 4, 2016 and May 18, 2016.
5. Exhibit 99.1 of our Current Report on Form 8-K filed with the SEC on June 3, 2016.
6. Exhibit 99.1 of our Current Report on Form 8-K/A filed with the SEC on May 20, 2015.
7. The description of our common stock set forth under the heading "Description of Our Capital Stock" in the prospectus included in the Registration Statement on Form S-1 (File No. 333-173445) initially filed with the SEC on April 12, 2011 (as amended from time to time).

Notwithstanding the foregoing, information that we furnish under Items 2.02 and 7.01 of any Current Report on Form 8-K, including the related exhibits under Item 9.01, is not incorporated by reference into this prospectus, the registration statement of which this prospectus is a part, or any prospectus supplement.

Any statement contained in a document that is incorporated by reference will be modified or superseded for all purposes to the extent that a statement contained in this prospectus or any accompanying prospectus supplement, or in any other document that is subsequently filed with the SEC and incorporated by reference, modifies, or is contrary to that previous statement. Any statement so modified or superseded will not be deemed a part of this prospectus or any accompanying prospectus supplement, except as so modified or superseded. Since information that we later file with the SEC will update and supersede previously incorporated information, you should look at all of the SEC filings that we incorporate by reference to determine if any of the statements in this prospectus or any accompanying prospectus supplement or in any documents previously incorporated by reference have been modified or superseded.

We will provide to each person, including any beneficial owner, to whom this prospectus is delivered, upon written or oral request, at no cost, a copy of any and all of the information that is incorporated by reference in this prospectus.

Requests for such documents shall be directed to:

The Chefs' Warehouse, Inc.  
100 East Ridge Road  
Ridgefield, Connecticut 06877  
Attn: Corporate Secretary  
Telephone: (203) 894-1345

TABLE OF CONTENTS**PART II****INFORMATION NOT REQUIRED IN PROSPECTUS****Item 14. *Other Expenses of Issuance and Distribution.***

The following table sets forth the various expenses to be incurred in connection with the sale and distribution of the securities being registered hereby, all of which will be borne by us (except any underwriting discounts and commissions and expenses incurred by the selling stockholders for brokerage, accounting, tax or legal services or any other expenses incurred by the selling stockholders in disposing of the shares of common stock). All amounts shown are estimates except the SEC registration fee:

	<b>AMOUNT TO BE PAID</b>
SEC Registration Fee	\$ 8,335
Legal Fees and Expenses	\$ 50,000
Accounting Fees and Expenses	\$ 50,000
Printing Fees and Expenses	\$ 25,000
Trustee Fees	\$ 25,000
Miscellaneous	\$ 20,000
Total	\$ 178,335

**Item 15. *Indemnification of Directors and Officers.***

Section 145(a) of the DGCL provides, in general, that a corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the corporation, because the person is or was a director or officer of the corporation. Such indemnity may be against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding, if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation and if, with respect to any criminal action or proceeding, the person did not have reasonable cause to believe the person's conduct was unlawful.

Section 145(b) of the DGCL provides, in general, that a corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor because the person is or was a director or officer of the corporation, against any expenses (including attorneys' fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to be indemnified for such expenses which the Court of Chancery or such other court shall deem proper.

Section 145(g) of the DGCL provides, in general, that a corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director or officer of the corporation against any liability asserted against the person in any such capacity, or arising out of the person's status as such, whether or not the corporation would have the power to indemnify the person against such liability under the provisions of the law. Our Certificate of

## Edgar Filing: Chefs' Warehouse, Inc. - Form S-3

Incorporation provides that, to the fullest extent permitted by applicable law, a director will not be liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director. In addition, our Bylaws provide that we will indemnify each director and officer and may indemnify employees and agents, as determined by our board, to the fullest extent provided by the laws of the State of Delaware.

The foregoing statements are subject to the detailed provisions of Section 145 of the Delaware General Corporation Law and provisions included in our Certificate of Incorporation and Bylaws.

II-1

TABLE OF CONTENTS

Section 102 of the Delaware General Corporation Law permits the limitation of directors' personal liability to the corporation or its stockholders for monetary damages for breach of fiduciary duties as a director except for (i) any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, (iii) breaches under section 174 of the Delaware General Corporation Law, which relates to unlawful payments of dividends or unlawful stock repurchase or redemptions, and (iv) any transaction from which the director derived an improper personal benefit.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or persons controlling us under the foregoing provisions, we have been informed that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

We refer you to Item 17 for our undertakings with respect to indemnification for liabilities arising under the Securities Act. We maintain directors' and officers' liability insurance for our officers and directors.

We have entered into an indemnification agreement with each of our executive officers and directors that provides, in general, that we will indemnify them to the fullest extent permitted by law in connection with their service to us or on our behalf.

**Item 16. Exhibits.**

See the Exhibit Index which follows the signature pages to this Registration Statement and is incorporated by reference herein.

**Item 17. Undertakings.**

(a) The undersigned registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:
  - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933; To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total (ii) dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement;
  - (iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement; *provided, however,* that paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

- (2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.





TABLE OF CONTENTS

- (4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:
- Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the
    - (i) registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and
    - Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of
    - (ii) the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

- That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this Registration Statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:
- (5)
    - (i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;
    - (ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;
    - (iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
    - (iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

- The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.
- Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its
- (b)
  - (c)



TABLE OF CONTENTS

counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes to file an application for the purpose of determining the eligibility (d) of the trustee to act under subsection (a) of Section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the Commission under Section 305(b)(2) of the Act.

II-4

TABLE OF CONTENTS**SIGNATURES**

Pursuant to the requirements of the Securities Act, The Chefs Warehouse, Inc. certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Ridgefield, State of Connecticut on June 1, 2016.

**THE CHEFS' WAREHOUSE, INC.**

By: */S/ CHRISTOPHER PAPPAS*  
 Christopher Pappas  
 Chairman of the Board of Directors,  
 President and Chief Executive Officer

**POWER OF ATTORNEY**

Each person whose signature appears below constitutes and appoints Christopher Pappas, John D. Austin and Alexandros Aldous and each of them, as his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for such person and in his or her name, place and stead, in any and all capacities, to sign any or all further amendments (including post-effective amendments) to this Registration Statement on Form S-3, and any subsequent registration statement filed pursuant to Rule 462(b) under the Securities Act, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof. Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated. This document may be executed in counterparts that when so executed shall constitute one registration statement, notwithstanding that all of the undersigned are not signatories to the original of the same counterpart.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated. This document may be executed in counterparts that when so executed shall constitute one registration statement, notwithstanding that all of the undersigned are not signatories to the original of the same counterpart.

<b>SIGNATURE</b>	<b>TITLE</b>	<b>DATE</b>
<i>/s/ CHRISTOPHER PAPPAS</i> Christopher Pappas	Chairman, President and Chief Executive Officer (Principal Executive Officer)	June 1, 2016
<i>/s/ JOHN D. AUSTIN</i> John D. Austin	Chief Financial Officer and Assistant Secretary (Principal Financial and Accounting Officer)	June 1, 2016
<i>/s/ JOHN PAPPAS</i> John Pappas	Director	June 1, 2016

Edgar Filing: Chefs' Warehouse, Inc. - Form S-3

/s/ DOMINICK CERBONE  
Dominick Cerbone

Director

June 1, 2016

/s/ JOHN A. COURI  
John A. Couri

Director

June 1, 2016

II-5

TABLE OF CONTENTS

<b>SIGNATURE</b>	<b>TITLE</b>	<b>DATE</b>
/s/ JOSEPH M. CUGINE Joseph M. Cugine	Director	June 1, 2016
/s/ JOHN DEBENEDETTI John DeBenedetti	Director	June 1, 2016
/s/ STEVEN F. GOLDSTONE Steven F. Goldstone	Director	June 1, 2016
/s/ ALAN GUARINO Alan Guarino	Director	June 1, 2016
/s/ STEPHEN HANSON Stephen Hanson	Director	June 1, 2016
/s/ KATHERINE OLIVER Katherine Oliver	Director	June 1, 2016

**TABLE OF CONTENTS**

**EXHIBIT INDEX**

<b>EXHIBIT NUMBER</b>	<b>DESCRIPTION</b>
1.1**	Form of Underwriting Agreement.
4.1	Certificate of Incorporation of the Company, dated as of July 27, 2011 (incorporated by reference to Exhibit 3.1 to the Company's Form 8-K filed on August 2, 2011).
4.2	Bylaws of the Company, dated as of July 27, 2011 (incorporated by reference to Exhibit 3.2 to the Company's Form 8-K filed on August 2, 2011).
4.3	Form of Common Stock Certificate (incorporated by reference to Exhibit 4.1 to the Company's S-1/A filed on July 1, 2011).
4.4	Form of Senior Indenture (incorporated by reference to Exhibit 4.4 to the Company's S-3/A filed on April 25, 2013).
4.5	Form of Subordinated Indenture (incorporated by reference to Exhibit 4.5 to the Company's S-3/A filed on April 25, 2013).
4.6**	Form of Senior Debt Security.
4.7**	Form of Subordinated Debt Security.
4.8**	Form of Preferred Stock Certificate.
4.9**	Form of Certificate of Designations.
4.10**	Form of Common Stock Warrant Agreement.
4.11**	Form of Common Stock Warrant Certificate.
4.12**	Form of Preferred Stock Warrant Agreement.
4.13**	Form of Preferred Stock Warrant Certificate.
4.14**	Form of Debt Securities Warrant Agreement.
4.15**	Form of Debt Securities Warrant Certificate.
4.16**	Form of Unit Agreement.
5.1*	Opinion of Shearman & Sterling LLP regarding the legality of the securities being registered.
12.1*	Statement Regarding Computation of Ratios.
23.1*	Consent of BDO USA, LLP, Independent Registered Public Accounting Firm.
23.2*	Consent of BDO USA, LLP, Independent Auditor.
23.3*	Consent of Shearman & Sterling LLP (included in Exhibit 5.1 above).
24.1*	Power of Attorney (included on the signature page to this Registration Statement).
25.1+	Statement of Eligibility of Trustee on Form T-1 under the Senior Indenture.
25.2+	Statement of Eligibility of Trustee on Form T-1 under the Subordinated Indenture.

\* Filed herewith.

\*\* To be filed, if necessary, by post-effective amendment to this Registration Statement or incorporated by reference from documents filed or to be filed with the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

+ To be filed by amendment or, if applicable, pursuant to the requirements of Section 305(b)(2) of the Trust Indenture Act of 1939, as amended.