

Fortune Brands Home & Security, Inc.
Form S-8
May 14, 2013

As filed with the Securities and Exchange Commission on May 14, 2013

Registration No. 333-

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM S-8
REGISTRATION STATEMENT**

UNDER

THE SECURITIES ACT OF 1933

FORTUNE BRANDS HOME & SECURITY, INC.

Delaware
(State or other jurisdiction of
incorporation or organization)

520 Lake Cook Road

62-1411546
(I.R.S. Employer

Identification Number)

60015

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Deerfield, Illinois
(Address of Principal Executive Offices) (Zip Code)
Fortune Brands Home & Security, Inc. 2013 Long-Term Incentive Plan

(Full title of the plan)

Lauren S. Tashma

Senior Vice President, General Counsel and Secretary

Fortune Brands Home & Security, Inc.

520 Lake Cook Road

Deerfield, Illinois 60015

(Name and address of agent for service)

(847) 484-4400

(Telephone number, including area code, of agent for service)

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 12b-2 of the Exchange Act (Check one):

Large accelerated filer Accelerated filer
Non-accelerated filer (Do not check if a smaller reporting company) Smaller Reporting Company

Calculation of Registration Fee

Title of securities to be registered	Amount to be registered(1)	Proposed maximum offering price per share(2)	Proposed maximum aggregate offering price(2)	Amount of registration fee
Common Stock, par value \$0.01 per share	4,600,000 shares	\$40.6375	\$186,932,500	\$25,498

- (1) In accordance with Rule 416(a) under the Securities Act of 1933, as amended, this registration statement shall be deemed to cover any additional shares of common stock that may be issued pursuant to the Plan to prevent dilution from stock splits, stock dividends or similar transactions.
- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) and Rule 457(h) under the Securities Act of 1933, as amended, and based on the average of the high and low prices of shares of common stock of the registrant as reported on the New York Stock Exchange on May 10, 2013.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The prospectus containing information required by Part I of Form S-8 and related to this Registration Statement is omitted from this Registration Statement in accordance with the Note to Part I of Form S-8. The Company will send or give to each participant in the Fortune Brands Home & Security, Inc. 2013 Long-Term Incentive Plan a copy of the prospectus. In accordance with the rules and regulations of the Securities and Exchange Commission (the Commission), the prospectus is not being filed with or included in this Registration Statement. The prospectus and the documents incorporated by reference into this Registration Statement pursuant to Item 3 of Part II of this Registration Statement, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents previously filed with the Commission are incorporated by reference in this Registration Statement:

- (a) the Company's Annual Report on Form 10-K for the year ended December 31, 2012 filed with the Commission on February 27, 2013;
- (b) the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2013 filed with the Commission on May 3, 2013;
- (c) the Company's Current Report on Form 8-K filed with the Commission on February 28, 2013, May 2, 2013 (other than the information furnished pursuant to Item 2.02 thereof) and May 3, 2013; and
- (d) the description of the Company's Common Stock, set forth under the heading "Description of Capital Stock" in the Company's Information Statement, filed as exhibit 99.1 to the Registration Statement on Form 10 filed with the Commission on August 26, 2011, including any amendment or report filed for the purpose of updating such description.

All documents filed by the Company pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, subsequent to the date hereof and prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold shall be deemed to be incorporated by reference herein and to be a part hereof from the date of filing of such documents. Notwithstanding the foregoing, unless specifically stated to the contrary, none of the information disclosed by the Company under Items 2.02 or 7.01 of any Current Report on Form 8-K that the Company may from time to time furnish to the Commission will be incorporated by reference into, or otherwise included in, this Registration Statement. Any statement contained herein or in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law (DGCL) provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, in which such person is made a party by reason of the fact that the person is or was a director, officer, employee or agent of the corporation (other than an action by or in the right of the corporation a derivative action), if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. A similar standard is applicable in the case of derivative actions, except that indemnification only extends to expenses (including attorneys' fees) incurred in connection with the defense or settlement of such action, and the statute requires court approval before there can be any indemnification where the person seeking indemnification has been found liable to the corporation. The statute provides that it is not exclusive of other indemnification that may be granted by a corporation's bylaws, disinterested director vote, stockholder vote, agreement or otherwise.

The Company's restated certificate of incorporation provides that no director shall be liable to the Company or the Company's stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation on liability is not permitted under the DGCL, as now in effect or as amended. Currently, Section 102(b)(7) of the DGCL requires that liability be imposed for the following:

any breach of the director's duty of loyalty to the Company or its stockholders;

any act or omission not in good faith or which involved intentional misconduct or a knowing violation of law;

unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the DGCL; and

any transaction from which the director derived an improper personal benefit.

The Company's restated certificate of incorporation also provides that the Company shall indemnify its directors and officers to the fullest extent permitted by the DGCL. A director's right to indemnification under the restated certificate of incorporation includes the right to be paid by the Company the expenses incurred in defending or participating in any proceeding in advance of its final disposition. The rights to indemnification and advancement of expenses in the restated certificate of incorporation are not exclusive of any other rights to which persons seeking indemnification may otherwise be entitled. In addition, any amendment of the limitation of liability, indemnification and advancement of expenses provisions in the restated certificate of incorporation will not reduce the Company's indemnification obligations relating to actions taken before such amendment.

The Company maintains liability insurance for its directors and officers. Such insurance is available to the Company's directors and officers in accordance with its terms.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

- 4.1 Restated Certificate of Incorporation of Fortune Brands Home & Security, Inc. is incorporated herein by reference to Exhibit 3(i) to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2012 filed on November 5, 2012.
- 4.2 Amended and Restated Bylaws of Fortune Brands Home & Security, Inc. are incorporated herein by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K filed on September 30, 2011.
- 5.1 Opinion of McDermott Will & Emery LLP.
- 23.1 Consent of Independent Registered Public Accounting Firm, PricewaterhouseCoopers LLP.
- 23.2 Consent of McDermott Will & Emery LLP (included in opinion filed as Exhibit 5.1).
- 24.1 Power of Attorney (included on signature page).
- 99.1 Fortune Brands Home & Security, Inc. 2013 Long-Term Incentive Plan is incorporated by reference to Appendix A to the Registrant's definitive proxy statement on Schedule 14A filed on March 5, 2013.

Item 9. Undertakings.

(1) The undersigned registrant hereby undertakes:

(a) 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;

(ii) To reflect in the prospectus any facts or events arising after the effective date of this 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 this Registration Statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

provided, however, that clauses (i) and (ii) do not apply if the information required to be included in a post-effective amendment by those clauses is contained in periodic reports filed with or furnished to the Commission by registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in this Registration Statement.

(b) 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.

(c) 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.

(2) 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 Section 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

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reference in this 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.

(3) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by registrant of expenses incurred or paid by a director, officer or controlling person of 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, registrant will, unless in the opinion of its 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 of 1933 and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the Village of Deerfield, State of Illinois, on this 14th day of May, 2013.

FORTUNE BRANDS HOME & SECURITY, INC.

By /s/ Lauren S. Tashma
Lauren S. Tashma, Senior Vice President,
General Counsel and Secretary

Each person whose signature appears below hereby constitutes and appoints Lauren S. Tashma his or her true and lawful attorney-in-fact and agent, with full powers of substitution and resubstitution, for the undersigned and in the name of the undersigned, in any and all capacities, to sign any or all amendments (including post-effective amendments) to this Registration Statement on Form S-8, 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 or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities indicated below on May 14, 2013.

By: /s/ Christopher J. Klein
Christopher J. Klein

Chief Executive Officer and Director

(principal executive officer)

By: /s/ Ann Fritz Hackett
Ann Fritz Hackett

Director

By: /s/ E. Lee Wyatt, Jr.
E. Lee Wyatt Jr.

Senior Vice President and Chief Financial Officer

(principal financial officer)

By: /s/ A. D. David Mackay
A.D. David Mackay

Director

By: /s/ Edward A. Wiertel
Edward A. Wiertel

Senior Vice President Finance

(principal accounting officer)

By: /s/ John G. Morikis
John G. Morikis

Director

By: /s/ David M. Thomas
David M. Thomas

Chairman of the Board and Director

By: /s/ Ronald V. Waters, III
Ronald V. Waters, III

Director

By: /s/ Richard A. Goldstein
Richard A. Goldstein

Director

By: /s/ Norman H. Wesley
Norman H. Wesley

Director

INDEX TO EXHIBITS

Exhibit No.	Description
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24.1	Power of Attorney (included on signature page).
99.1	Fortune Brands Home & Security, Inc. 2013 Long-Term Incentive Plan is incorporated by reference to Appendix A to the Registrant's definitive proxy statement on Schedule 14A filed on March 5, 2013.