

MORGANS FOODS INC
Form DEFM14A
April 16, 2014

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

**Proxy Statement Pursuant to Section 14(a) of the
Securities Exchange Act of 1934**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material under §240.14a-12

Morgan's Foods, Inc.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

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April 17, 2014

Dear Fellow Shareholders:

You are cordially invited to attend a special meeting of shareholders of Morgan's Foods, Inc. to be held on May 22, 2014, at 10:00 a.m. (Eastern Time), at the Cleveland Marriott East Hotel, 26300 Harvard Road, Warrensville Heights, Ohio 44122.

On March 30, 2014, the Board of Directors approved a merger agreement among Morgan's Foods, Apex Restaurant Management, Inc. ("Apex"), and Apex Brands Foods, Inc., an Ohio corporation and wholly owned subsidiary of Apex, pursuant to which Morgan's Foods will become a wholly owned subsidiary of Apex and each of your Morgan's Foods common shares will be converted into the right to receive \$5.00 in cash, without interest. At the special meeting, in addition to the other proposals described below, the Board of Directors will ask you to adopt the merger agreement.

The proxy statement accompanying this letter is furnished in connection with the solicitation by the Board of Directors of proxies to be used at the special meeting.

The Board of Directors has carefully reviewed and considered the terms and conditions of the proposed merger. Based on its review, the Board of Directors has determined that the merger is advisable to and in the best interests of Morgan's Foods' shareholders. **Accordingly, the Board of Directors has unanimously approved the merger agreement and unanimously recommends that you vote FOR the adoption of the merger agreement.**

Your vote is very important. The merger may not be completed unless holders of at least two-thirds of Morgan's Foods common shares outstanding and entitled to vote at the special meeting vote to adopt the merger agreement.

Only holders of record of Morgan's Foods common shares at the close of business on April 11, 2014, will be entitled to vote at the special meeting. Please complete, sign, date and return your proxy. If you hold your shares in "street name," you should instruct your broker how to vote in accordance with your voting instruction form. Completing a proxy now will not prevent you from being able to vote at the special meeting by attending in person and casting a vote. Failure to submit a signed proxy or to vote in person at the special meeting will have the same effect as a vote against the adoption of the merger agreement.

The proxy statement explains the proposed merger and the merger agreement and provides specific information concerning the special meeting. Please read the entire proxy statement carefully.

Sincerely,

James J. Liguori
*President and Interim Chief Executive
Officer*

This proxy statement is dated April 17, 2014 and is first being mailed, along with the attached proxy card for our common shareholders on or about April 17, 2014.

MORGAN'S FOODS, INC.

4829 Galaxy Parkway, Suite S

Cleveland, Ohio 44128

NOTICE OF SPECIAL MEETING OF SHAREHOLDERS

TO BE HELD MAY 22, 2014

To Shareholders of Morgan's Foods, Inc.:

A special meeting of shareholders of Morgan's Foods, Inc. will be held at 10:00 a.m. (Eastern Time), on May 22, 2014, at the Cleveland Marriott East Hotel, 26300 Harvard Road, Warrensville Heights, Ohio 44122, unless adjourned or postponed to a later date. The special meeting is being held for the following purposes:

1. To consider and vote upon a proposal to adopt the Agreement and Plan of Merger, dated as of March 30, 2014, by and among Morgan's Foods, Apex Restaurant Management, Inc., and Apex Brands Foods, Inc., a wholly owned subsidiary of Apex Restaurant Management, Inc. As a result of the merger, Morgan's Foods will become a wholly owned subsidiary of Apex Restaurant Management, Inc. and each outstanding Morgan's Foods common share will be converted into the right to receive \$5.00 in cash, without interest.
2. To approve, on an advisory (non-binding) basis, specified compensation that will be paid or may become payable to the named executive officers of Morgan's Foods in connection with the merger.
3. To approve adjournments or postponements of the special meeting, if necessary, to permit further solicitation of proxies if there are not sufficient votes at the time of the special meeting to adopt the merger agreement.

Only holders of record of Morgan's Foods common shares at the close of business on April 11, 2014, the record date for the special meeting, are entitled to notice of, and to vote at, the special meeting and any adjournments or postponements thereof. Each common share is entitled to vote on all matters that properly come before the special

meeting and is entitled to one vote on each matter properly brought before the special meeting.

After careful consideration, our Board of Directors has approved the merger agreement and has declared the merger agreement and the transactions contemplated by the merger agreement to be fair to and in the best interests of the Company and our shareholders. Our Board of Directors recommends that holders of our common shares vote “FOR” the adoption of the merger agreement. Morgan’s Foods cannot complete the merger unless the merger agreement is adopted by Morgan’s Foods’ shareholders. Adoption of the merger agreement requires the affirmative vote of holders of at least two-thirds of Morgan’s Foods common shares outstanding and entitled to vote at the special meeting.

The attached proxy statement describes the proposed merger and the actions to be taken in connection with the merger and provides additional information about the parties involved.

Whether or not you plan to attend the special meeting, please complete, sign and date the enclosed proxy and return it promptly in the enclosed postage-paid return envelope, or give your proxy by telephone or over the Internet by following the instructions on the proxy card. You may revoke the proxy at any time prior to its exercise at the special meeting in the manner described in this proxy statement. Completing a proxy now will not prevent you from being able to vote at the special meeting by attending in person and casting a vote. Simply attending the special meeting however, will not revoke your proxy. If you attend the meeting and give the Company notice in open meeting that the proxy is revoked, your vote at the special meeting will supersede any previously submitted proxy. The provisions of the Ohio Revised Code relating to your dissenters’ rights are attached to the accompanying proxy statement as Annex D.

If you fail to return your proxy or to attend the special meeting in person, your shares will not be counted for purposes of determining whether a quorum is present at the special meeting and will have the same effect as a vote AGAINST the adoption of the merger agreement.

By order of the Board of Directors,

Kenneth L. Hignett
*Executive Vice President, Chief
Financial Officer and Secretary*
April 17, 2014

**IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS FOR
THE SPECIAL MEETING OF SHAREHOLDERS TO BE HELD ON MAY 22, 2014:**

This proxy statement is available at www.edocumentview.com/MRFD.

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Annex A - Merger Agreement

Annex B - Voting Agreement

Annex C - Brookwood Associates Fairness Opinion dated March 30, 2014

Annex D - Ohio Revised Code Sections 1701.84 and 1701.85

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Summary

This summary highlights selected information from this proxy statement and may not contain all of the information that is important to you. You should carefully read this entire proxy statement, including the annexes, and the other documents to which we have referred you. We have included page references parenthetically to direct you to a more complete description of the topics presented in this summary.

Parties to the Merger

Morgan's Foods, Inc.

Morgan's Foods, Inc., an Ohio corporation ("Morgan's Foods" or the "Company"), which was formed in 1925, owns and operates 68 KFC, Taco Bell and Pizza Hut Express franchises in Ohio, Pennsylvania, West Virginia, Illinois, New York and Missouri. Our principal executive offices are located at Morgan's Foods, Inc., 4829 Galaxy Parkway, Suite S, Cleveland, Ohio 44128, and our telephone number is (216) 359-9000.

Apex Restaurant Management, Inc.

Apex Restaurant Management, Inc., a California corporation ("Apex"), was formed in 2005 and is one of the largest franchise organizations of Yum! Brands and Long John Silver's, with locations in Texas, Arkansas, Louisiana, Oklahoma and Illinois. Apex's principal executive offices are located at 1024 Serpentine Lane #101, Pleasanton, California 94566, and its telephone number is (469) 317-3900.

Apex Brands Foods, Inc.

Apex Brands Foods, Inc., an Ohio corporation ("Merger Sub"), is a direct wholly owned subsidiary of Apex formed solely for the purpose of effecting the merger with Morgan's Foods. Merger Sub has not conducted any unrelated activities since its organization. Merger Sub's principal executive offices are located at 17774 Preston Road, Dallas, Texas 75252, and its telephone number is (469) 317-3900.

The Special Meeting (page 13)

We are furnishing this proxy statement to our shareholders as part of the solicitation of proxies by our Board of Directors for use at the special meeting.

Date, Time and Place

The special meeting of shareholders of Morgan's Foods will be held at 10:00 a.m. (Eastern Time), on May 22, 2014, at the Cleveland Marriott East Hotel, 26300 Harvard Road, Warrensville Heights, Ohio 44122, unless adjourned or postponed to a later date.

Purpose

You will be asked to consider and vote upon a proposal to adopt the Agreement and Plan of Merger, which is referred to as the merger agreement. The merger agreement provides that Merger Sub will merge with and into Morgan's Foods, and Morgan's Foods will become a wholly owned subsidiary of Apex. Each Morgan's Foods common share you own at the effective time of the merger will be converted into the right to receive \$5.00 in cash, without interest.

You will also be asked to approve, on a nonbinding, advisory basis, compensation that will or may be paid by Morgan's Foods to its named executive officers that is based on or otherwise relates to the merger, and to approve the adjournment of the special meeting, if necessary or appropriate, for the purpose of soliciting additional votes for the approval of the merger proposal.

Record Date; Shareholders Entitled to Vote

You are entitled to vote at the special meeting if you owned Morgan's Foods common shares as of the close of business on April 11, 2014, the record date for the special meeting. As of the record date, there were 4,050,147 Morgan's Foods common shares outstanding. You will have one vote on each matter submitted to a vote at the special meeting for each Morgan's Foods common share that you owned as of the close of business on the record date.

Voting and Proxies

Shareholders can vote their Morgan's Foods common shares on the adoption of the merger agreement at the special meeting in four ways, by (i) proxy; (ii) telephone; (iii) internet; or (iv) in person. See and read carefully "The Special Meeting - Voting and Proxies" beginning on page 16.

You may revoke your proxy at any time prior to the vote at the special meeting by delivering to Morgan's Foods' Corporate Secretary a signed notice of revocation or submitting a later-dated, signed proxy. You also may revoke your proxy in open meeting by attending the special meeting, giving the Company notice in open meeting that the proxy is revoked, and voting in person. Attendance at the special meeting will not, in and of itself, result in the revocation of a proxy or cause your Morgan's Foods common shares to be voted.

Quorum

A quorum of shareholders is necessary to hold a valid meeting. Under our Amended Code of Regulations, the holders of a majority of the outstanding Morgan's Foods common shares entitled to vote at the special meeting, present in person or by proxy, shall constitute a quorum.

The holders of a majority of the common shares present or represented at the special meeting, whether or not a quorum is present, may adjourn the meeting, without notice other than by announcement at the meeting, until the requisite number of shares shall be present or represented.

If you submit a properly executed proxy card, even if you abstain from voting, your Morgan's Foods common shares will be counted for purposes of determining whether a quorum is present at the special meeting. In the event that a quorum is not present at the special meeting or additional votes must be solicited to adopt the merger agreement, it is

expected that the meeting will be adjourned or postponed to solicit additional proxies.

Vote Required

Adoption of the merger agreement requires the affirmative vote of holders of at least two-thirds of Morgan's Foods common shares outstanding and entitled to vote at the special meeting. As of the record date, there were 4,050,147 Morgan's Foods common shares outstanding. Shareholders owning in the aggregate 1,539,222, or approximately 37%, of our common shares have entered into a voting agreement under which they have agreed to vote **FOR** the adoption of the merger agreement. See "The Voting Agreement" on page 50.

Effect of Abstentions and Broker Non-Votes on Voting

Abstentions and shares not in attendance and not voted at the special meeting will have the same effect as a vote **AGAINST** the proposal to adopt the merger agreement. Because brokers or banks holding Morgan's Foods common shares in "street name" may vote your Morgan's Foods common shares on the proposals to be considered at the special meeting only if you provide instructions on how to vote, your failure to provide instructions will result in your shares not being present at the meeting and not being voted on these proposals. Consequently, there cannot be any broker non-votes occurring in connection with any of the proposals at the special meeting. It is very important that all of our shareholders vote their Morgan's Foods common shares, so please promptly complete and return the enclosed proxy card.

Expenses of Proxy Solicitation

Our directors, officers and other employees may solicit proxies in person, by telephone, electronically, by mail or other means, but they will not be specifically compensated for these services. Brokers, banks and other persons will be reimbursed by us for expenses they incur in forwarding proxy material to obtain voting instructions from beneficial shareholders. The total cost of solicitation of proxies will be borne by us. For a description of the costs and expenses to us of soliciting proxies, see “The Special Meeting — Solicitation Costs” on page 18.

Board of Directors Recommendation (page 25)

The Board of Directors has found and declared that the merger agreement and the merger are advisable, fair to, and in the best interests of the Company and its shareholders, has unanimously approved the merger agreement and unanimously recommends that our shareholders vote **FOR** the adoption of the merger agreement.

The Merger and the Merger Agreement (pages 18 & 39)

The rights and obligations of the parties to the merger agreement are governed by the specific terms and conditions of the merger agreement and not by any summary or other information in this proxy statement. Therefore, the information in this proxy statement regarding the merger agreement and the merger is qualified in its entirety by reference to the merger agreement, a copy of which is attached as Annex A. We encourage you to read the merger agreement carefully and in its entirety because it is the principal legal agreement that governs the merger.

Structure of the Merger

At the effective time of the merger, Merger Sub, a wholly owned subsidiary of Apex, will be merged with and into Morgan’s Foods. Morgan’s Foods will continue as the surviving corporation and become a wholly owned subsidiary of Apex.