

TERRA INDUSTRIES INC
Form SC TO-T
March 05, 2010

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE TO

Tender Offer Statement Under Section 14(d)(1) or 13(e)(1)

of the Securities Exchange Act of 1934

TERRA INDUSTRIES INC.

(Name of Subject Company (Issuer))

CF INDUSTRIES HOLDINGS, INC.

COMPOSITE MERGER CORPORATION

(Name of Filing Persons (Offerors))

Common Shares, without par value

(Title of Class of Securities)

880915103

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(CUSIP Number of Class of Securities)

Douglas C. Barnard

Vice President, General Counsel, and Secretary

4 Parkway North, Suite 400

Deerfield, Illinois 60015

(847) 405-2400

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications on Behalf of
Filing Persons)

Copies to:

Brian W. Duwe

Richard C. Witzel, Jr.

Skadden, Arps, Slate, Meagher & Flom LLP

155 North Wacker Drive

Chicago, Illinois 60606

(312) 407-0700

CALCULATION OF FILING FEE

Transaction Valuation(1)
\$4,182,005,167

Amount of Filing Fee(2)
\$298,177

-
- (1) Estimated for purposes of calculating the filing fee only. Pursuant to Rules 0-11(a)(4) and 0-11(d) under the Securities Exchange Act of 1934, as amended, the market value of the securities to be received was calculated as the product of (i) 101,566,610 shares of Terra Industries Inc. common stock (the sum of (x) 100,105,516 shares of Terra Industries Inc. common stock outstanding as of February 25, 2010 and (y) 1,462,094 shares of Terra Industries Inc. common stock issuable upon the vesting of stock-based awards and the conversion of Terra Industries Inc. preferred stock (as reported in Terra Industries Inc.'s Annual Report on Form 10-K for the year ended December 31, 2009 and preliminary Proxy Statement on Schedule 14A filed on February 24, 2010), less 1,000 shares of

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Terra Industries Inc. common stock owned by CF Composite, Inc., a wholly-owned subsidiary of CF Industries Holdings, Inc. and (ii) the average of the high and low sales prices of Terra Industries Inc. common stock as reported on the New York Stock Exchange on March 1, 2010 (\$41.18).

- (2) The amount of filing fee is calculated in accordance with Rule 0-11(a)(2) under the Securities Act of 1934, as amended, equals \$71.30 per \$1,000,000 of the value of the transaction.
- x Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount previously paid: \$29,148
Form or Registration No.: Form S-4

Filing Party: CF Industries Holdings, Inc.
Date Filed: March 5, 2010

- o Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer. Check the appropriate boxes below to designate any transactions to which the statement relates:
- x third-party tender offer subject to Rule 14d-1.
- o issuer tender offer subject to Rule 13e-4.
- o going-private transaction subject to Rule 13e-3.
- o amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer: o

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This Tender Offer Statement on Schedule TO (this Schedule TO) is being filed by CF Industries Holdings, Inc., a Delaware corporation (CF Holdings), and Composite Merger Corporation, a Maryland corporation (Composite). This Schedule TO relates to the third party tender offer by Composite to exchange each of the issued and outstanding shares of common stock, without par value (the Terra common stock) of Terra Industries Inc., a Maryland corporation (Terra) for \$37.15 in cash, less any applicable withholding taxes and without interest, and 0.0953 shares of common stock, par value \$0.01 per share, of CF Holdings (together with the associated preferred stock purchase rights) (the CF Holdings common stock), upon the terms and conditions set forth in (1) the prospectus/offer to exchange, dated March 5, 2010 (the Offer to Exchange), which is set forth as Exhibit (a)(4) hereto and (2) the related letter of transmittal (the Letter of Transmittal), which is set forth as Exhibit (a)(1)(A) hereto (the offer reflected by such terms and conditions, as they may be amended or supplemented from time to time, constitutes the Offer).

On March 5, 2010, CF Holdings filed a registration statement on Form S-4, of which the Offer to Exchange forms a part.

All information contained in the Offer to Exchange and the Letter of Transmittal, and any prospectus supplement or other supplement thereto related to the Offer, is hereby expressly incorporated herein by reference in response to all items in this Schedule TO and as more precisely set forth below.

ITEM 1 THROUGH 11.

The information set forth below regarding CF Holdings and Terra is incorporated by reference into these Items 1 through 11. The SEC allows CF Holdings to incorporate information into this Schedule TO by reference, which means that CF Holdings can disclose important information to Terra stockholders by referring to another document or information filed separately with the SEC. The information incorporated by reference is deemed to be part of this Schedule TO, except for any information amended or superseded by information contained in, or incorporated by reference into, this Schedule TO. These incorporated documents contain important information about CF Holdings and Terra and their financial condition.

CF Holdings Filings (File No. 001-32597):	Period
Annual Report on Form 10-K	Fiscal Year Ended December 31, 2009, as filed on February 25, 2010
The description of the common stock as contained in Item 1 of CF Holdings Registration Statement on Form 8-A, filed on August 8, 2005, including all amendments and reports filed for the purpose of updating such description.	
The description of CF Holdings rights plan as contained in Exhibit 4.2 to CF Holdings Registration Statement on Form S-1/A, filed on July 26, 2005, including all amendments and reports filed for the purpose of updating such description.	
Proxy Statement on Schedule 14A	Filed on March 16, 2009 and supplemented and filed on April 7, 2009
Current Report on Form 8-K	Filed on January 15, 2010
Terra Filings (File No. 001-08520):	Period
Annual Report on Form 10-K (except for the report of Terra's independent public accountants contained therein which is	Fiscal year ended December 31, 2009, as filed on February 25, 2010

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not incorporated herein by reference because the consent of Terra s
independent public accountants has not yet been obtained nor has
exemptive relief under Rule 437, promulgated under the Securities
Act, been granted to CF Holdings by the SEC)

Proxy Statement on Schedule 14A

Filed October 13, 2009

ITEM 1. SUMMARY TERM SHEET.

The information set forth in the Offer to Exchange under the caption Summary of the Offer is incorporated herein by reference.

ITEM 2. SUBJECT COMPANY INFORMATION.

(a) *Name and Address.* As described in the Offer to Exchange, the subject company and the issuer of the securities subject to the Offer is Terra Industries Inc., a Maryland corporation. The information set forth in the Offer to Exchange under the caption The Companies Terra is incorporated herein by reference.

(b) *Securities.* Based upon information contained in Terra's Annual Report on Form 10-K for the year ended December 31, 2009, there were 100,105,516 shares of Terra common stock outstanding as of February 25, 2010.

(c) *Trading Market and Price.* The information set forth in the Offer to Exchange under the caption Comparative Market Price And Dividend Information is incorporated herein by reference.

ITEM 3. IDENTITY AND BACKGROUND OF THE FILING PERSON.

(a) *Name and Address.* CF Holdings and Composite are the filing persons. The information set forth in the Offer to Exchange under the captions The Companies CF Holdings and The Companies Composite, in Schedule I to the Offer to Exchange entitled Directors and Executive Officers of CF Holdings and in Schedule II to the Offer to Exchange entitled Directors and Executive Officers of Composite is incorporated herein by reference.

(b) *Business and Background of Entities.* The information set forth in the Offer to Exchange under the captions The Companies CF Holdings, The Companies Composite and The Exchange Offer Certain Relationships with Terra and Interests of CF Holdings and Composite in the Offer is incorporated herein by reference.

(c) *Business and Background of Natural Persons.* The information set forth in the Offer to Exchange under the caption The Exchange Offer Certain Relationships with Terra and Interests of CF Holdings and Composite in the Offer, in Schedule I to the Offer to Exchange entitled Directors and Executive Officers of CF Holdings and in Schedule II to the Offer to Exchange entitled Directors and Executive Officers of Composite is incorporated herein by reference.

ITEM 4. TERMS OF THE TRANSACTION.

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(a)(1)(i)-(viii) and (x)-(xii) *Material Terms*. The information set forth in the Offer to Exchange under the captions The Exchange Offer, Comparison of Stockholders Rights and Description of CF Holdings Capital Stock is incorporated herein by reference.

(a)(1)(ix) Not applicable.

(a)(2) Not applicable.

ITEM 5. PAST CONTACTS, TRANSACTIONS, NEGOTIATIONS AND AGREEMENTS.

(a) *Transactions*. The information set forth in the Offer to Exchange under the caption The Exchange Offer Certain Relationships with Terra and Interests of CF Holdings and Composite in the Offer is incorporated herein by reference.

(b) *Significant Corporate Events*. The information set forth in the Offer to Exchange under the captions Background and Reasons for the Offer and The Exchange Offer Certain Relationships with Terra and Interests of CF Holdings and Composite in the Offer is incorporated herein by reference.

ITEM 6. PURPOSES OF THE TRANSACTION AND PLANS OR PROPOSALS.

(a) *Purposes*. The information set forth in the Offer to Exchange under the captions Background and Reasons for the Offer, The Exchange Offer Ownership of CF Holdings after the Offer and The Exchange Offer Purpose and Structure of the Offer is incorporated herein by reference.

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(c) *Plans.* The information set forth in the Offer to Exchange under the captions Background and Reasons for the Offer, The Exchange Offer Ownership of CF Holdings after the Offer, The Exchange Offer Purpose and Structure of the Offer, The Exchange Offer Plans for Terra, The Exchange Offer Short-Form Merger, The Exchange Offer Financing of the Offer; Source and Amount of Funds and The Exchange Offer Effect of the Offer on the Market for Shares of Terra Common Stock; NYSE Listing; Registration under the Exchange Act; Margin Regulations is incorporated herein by reference.

ITEM 7. SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION.

(a), (b) and (d) *Source of Funds; Conditions; Borrowed Funds.* The information set forth in the Offer to Exchange under the caption The Exchange Offer Financing of the Offer; Source and Amount of Funds is incorporated herein by reference.

ITEM 8. INTEREST IN SECURITIES OF THE SUBJECT COMPANY.

(a) and (b) *Securities Ownership; Securities Transactions.* The information set forth in the Offer to Exchange under the caption The Exchange Offer Certain Relationships with Terra and Interests of CF Holdings and Composite in the Offer and in Schedule III to the Offer to Exchange entitled Securities Transactions in the Past 60 Days is incorporated herein by reference.

ITEM 9. PERSONS/ASSETS, RETAINED, EMPLOYED, COMPENSATED OR USED.

(a) *Solicitations or Recommendations.* The information set forth in the Offer to Exchange under the caption The Exchange Offer Fees and Expenses is incorporated herein by reference.

ITEM 10. FINANCIAL STATEMENTS.

(a) *Financial Information.* The information set forth in the Offer to Exchange under the captions Selected Historical Consolidated Financial Data for CF Holdings and Historical and Pro Forma Per Share Data, the financial information set forth in Item 8 of CF Holdings Annual Report on Form 10-K for its fiscal year ended December 31, 2009 is incorporated herein by reference. Composite was formed on February 9, 2009 and has no financial assets.

(b) *Pro Forma Information.* The information set forth in the Offer to Exchange under the captions Selected Unaudited Pro Forma Combined Financial Data, Historical and Pro Forma Per Share Data and Unaudited Pro Forma Condensed Combined Consolidated Financial Statements is incorporated herein by reference. Composite was formed on February 9, 2009 and has no financial assets.

ITEM 11. ADDITIONAL INFORMATION.

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(a)(1) Except to the extent already disclosed in this Schedule TO or as described in the Offer to Exchange, neither CF Holdings nor any of CF Holdings' directors, executive officers or other affiliates is a party to any present or proposed material agreement, arrangement, understanding or relationship with Terra or any of Terra's executive officers, directors or affiliates that would require disclosure under Item 1011(a)(1) of Regulation M-A.

(a)(2), (3) The information set forth in the Offer to Exchange under the captions "The Exchange Offer - Statutory Requirements; Approval of the Second-Step Merger," "The Exchange Offer - Short-Form Merger," "The Exchange Offer - Conditions of the Offer" and "The Exchange Offer - Certain Legal Matters; Regulatory Approvals" is incorporated herein by reference.

(a)(4) The information set forth in the Offer to Exchange under the caption "The Exchange Offer - Effect of the Offer on the Market for Shares of Terra Common Stock; NYSE Listing; Registration under the Exchange Act; Margin Regulations" is incorporated herein by reference.

(a)(5) There are not any material legal proceedings relating to the Offer.

(b) To the extent not already incorporated into this Schedule TO, the information set forth in the Offer to Exchange and in the related Letter of Transmittal, in each case as of the date hereof, is incorporated herein by reference. Additional information from future filings with the SEC may be incorporated by reference herein by amending this Schedule TO.

ITEM 12. EXHIBITS.

- (a)(1)(A) Form of Letter of Transmittal*
- (a)(1)(B) Form of Notice of Guaranteed Delivery*
- (a)(1)(C) Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees*
- (a)(1)(D) Form of Letter to Clients for Use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees*
- (a)(1)(E) Form of Guidelines for Certificate of Taxpayer Identification Number on Substitute Form W-9*
- (a)(1)(F) Form of Agreement and Plan of Merger, among CF Industries Holdings, Inc., Composite Merger Corporation and Terra Industries Inc.
- (a)(2) Not applicable
- (a)(3) Not applicable
- (a)(4) Offer to Exchange*
- (b) Not applicable
- (d) Commitment Letter, dated March 2, 2010, among CF Industries Holdings, Inc., Morgan Stanley Senior Funding, Inc. and The Bank of Tokyo-Mitsubishi UFJ, Ltd.
- (g) Not applicable
- (h) Opinion of Skadden, Arps, Slate, Meagher & Flom LLP as to certain tax matters*
- * Incorporated by Reference to the CF Holdings Registration Statement on Form S-4 filed on March 5, 2010

ITEM 13. INFORMATION REQUIRED BY SCHEDULE 13E-3.

Not applicable.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this Schedule TO is true, complete and correct.

CF INDUSTRIES HOLDINGS, INC.

By: /s/ Douglas C. Barnard
Name: Douglas C. Barnard
Title: Vice President, General Counsel, and Secretary

COMPOSITE MERGER CORPORATION

By: /s/ Douglas C. Barnard
Name: Douglas C. Barnard
Title: Vice President and Secretary

Date: March 5, 2010

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