

GOODYEAR TIRE & RUBBER CO /OH/

Form S-8

August 01, 2017

As filed with the Securities and Exchange Commission on August 1, 2017

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

THE GOODYEAR TIRE & RUBBER COMPANY
(Exact Name of Registrant as Specified in its Charter)

Ohio
(State or Other Jurisdiction of

Incorporation or Organization)

200 Innovation Way

34-0253240
(I.R.S. Employer

Identification No.)

Akron, Ohio 44316-0001

(Address of Principal Executive Offices, Including Zip Code)

2017 Performance Plan of The Goodyear Tire & Rubber Company

(Full Title of the Plan)

David L. Bialosky, Esq., Senior Vice President,

General Counsel and Secretary

The Goodyear Tire & Rubber Company

200 Innovation Way

Akron, Ohio 44316-0001

(330) 796-2121

(Name, Address, and 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, a smaller reporting company or an emerging growth company. See the definitions of large accelerated filer, accelerated filer, smaller reporting company and emerging growth company in Rule 12b-2 of the Exchange Act.

Large accelerated filer

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

Accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act

CALCULATION OF REGISTRATION FEE

| Title of Securities to be Registered | Amount To Be | Proposed Maximum | Proposed | Amount of Registration Fee |
|---|-------------------------|-----------------------------|-----------------|---------------------------------------|
|---|-------------------------|-----------------------------|-----------------|---------------------------------------|

| | Registered⁽¹⁾ | Offering Price per Share⁽²⁾ | Maximum Aggregate Offering Price⁽²⁾ | |
|---------------------------------|---------------------------------|---|---|-------------|
| Common Stock, Without Par Value | 18,000,000 | \$31.78 | \$572,040,000 | \$66,299.44 |

- (1) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended (the Securities Act), this Registration Statement shall also cover an indeterminate number of additional shares of the Registrant's Common Stock that becomes issuable under the 2017 Performance Plan by reason of any stock splits, stock dividends, reorganizations, mergers, consolidations, recapitalizations or other similar transactions.
- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) and (h) under the Securities Act and based upon the average of the high and low prices of the Registrant's Common Stock as reported by The NASDAQ Stock Market on July 28, 2017.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The documents containing the information specified in Part I of Form S-8 will be sent or given to participants in the 2017 Performance Plan of The Goodyear Tire & Rubber Company (the Plan), as specified by Rule 428(b)(1) under the Securities Act. Such documents need not be filed with the Securities and Exchange Commission (the Commission) either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. These documents and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II of Form S-8, taken together, will constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents, which are on file with the Commission, are incorporated by reference into this Registration Statement (except for the portions of the Registrant's Current Reports on Form 8-K furnished pursuant to Item 2.02 or Item 7.01 thereof or otherwise not filed with the Commission, which are deemed not to be incorporated by reference into this Registration Statement):

1. The Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2016;
2. The Registrant's Quarterly Reports on Form 10-Q for the quarterly periods ended March 31, 2017 and June 30, 2017;
3. The Registrant's Current Reports on Form 8-K filed with the Commission on March 6, 2017, March 7, 2017, April 13, 2017, and June 8, 2017; and
4. The description of the Registrant's Common Stock, without par value, contained in the Registration Statement on Form 8-A filed with the Commission on December 17, 2012, and all amendments and reports filed for the purpose of updating such description.

In addition, all documents subsequently filed by the Registrant with the Commission pursuant to Sections 13(a), 13(c), 14 and

15(d) of the Securities Exchange Act of 1934, as amended (the Exchange Act) (other than those furnished pursuant to Item 2.02 or Item 7.01 of Form 8-K or other information furnished to the Commission) prior to the filing of a post-effective amendment to this Registration Statement 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 in this Registration Statement and to be part hereof from the time of filing of such documents. Any statement contained in a document incorporated or deemed to be incorporated herein by reference 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 other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes

such statement.

Item 4. Description of Securities.

The securities to be offered are registered under Section 12 of the Exchange Act and, accordingly, no description is provided hereunder.

Item 5. Interests of Named Experts and Counsel.

The validity of the Common Stock being offered pursuant to this Registration Statement will be passed upon for the Registrant by David L. Bialosky, Senior Vice President, General Counsel and Secretary of the Registrant. Mr. Bialosky is paid a salary by the Registrant, participates in the Registrant's executive compensation plans and programs, owns shares of Common Stock, holds performance shares and options to purchase shares of Common Stock issued under the Registrant's employee benefit plans, and is expected to be a participant in the Plan.

Item 6. Indemnification of Directors and Officers.

The Registrant is an Ohio corporation. Section 1701.13(E) of the Ohio Revised Code gives a corporation incorporated under the laws of Ohio authority to indemnify or agree to indemnify its directors and officers against certain liabilities they may incur in such capacities in connection with criminal or civil suits or proceedings, other than an action brought by or in the right of the corporation, provided that the director or officer acted in good faith and in a manner that the 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, the person had no reasonable cause to believe his or her conduct was unlawful. In the case of an action or suit by or in the right of the corporation, the corporation may indemnify or agree to indemnify its directors and officers against certain liabilities they may incur in such capacities, provided that the director or officer acted in good faith and in a manner that the person reasonably believed to be in or not opposed to the best interests of the corporation, except that indemnification shall not be made in respect of any claim, issue, or matter as to which (a) the person is adjudged to be liable for negligence or misconduct in the performance of their duty to the corporation unless and only to the extent that the court of common pleas or the court in which the action or suit was brought determines, upon application, that, despite the adjudication of liability but in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnification for expenses that the court considers proper or (b) any action or suit in which the only liability asserted against a director is pursuant to Section 1701.95 of the Ohio Revised Code. Section 1701.13(E) further provides that a corporation shall indemnify a director or officer for expenses, including attorney's fees, actually and reasonably incurred by the director or officer in connection with any action, suit or proceeding referred to above to the extent he or she has been successful on the merits or otherwise in defense of the action, suit or proceeding, or in defense of any claim, issue or matter in the action, suit or proceeding.

The Registrant has adopted provisions in its Code of Regulations that provide that it shall indemnify its directors and officers against any and all liability and reasonable expense that may be incurred by a director or officer in connection with or resulting from any claim, action, suit or proceeding (whether brought by or in the right of the Registrant or such other entity or otherwise) in which the person may become involved by reason of his or her being or having been a director or officer of the Registrant, or by reason of any past or future action taken or not taken in his or her capacity as such director or officer, provided such person acted in good faith, in what he or she reasonably believed to be in or not opposed to the best interests of the Registrant, and, in addition, in any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was unlawful.

As permitted by Ohio law, the Registrant's Code of Regulations also authorize the Registrant to advance expenses incurred by a director or officer in defending any claim, action, suit or proceeding in advance of the final disposition thereof upon receipt of an undertaking by or on behalf of the recipient to repay all amounts so advanced unless it is ultimately determined that he or she is entitled to indemnification.

The Registrant maintains and pays the premiums on contracts insuring the Registrant and its subsidiaries (with certain exclusions) against any liability to directors and officers they may incur under the above provisions for indemnification and insuring each director and officer of the Registrant (with certain exclusions) against liability and expense, including legal fees, which he or she may incur by reason of his or her relationship to the Registrant even if the Registrant does not have the obligation or right to indemnify such director or officer against such liability or expense.

The Registrant, upon approval by the Board of Directors, may enter into agreements with directors and officers whom the Registrant may indemnify under the Code of Regulations or under the laws of the State of Ohio and may undertake thereby to indemnify such directors and officers and to pay the expenses incurred by them in defending any action, suit or proceeding against them.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

The Exhibits to this Registration Statement are listed in the Exhibit Index to this Registration Statement, which Exhibit Index is incorporated herein by reference.

Item 9. 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;

(ii) 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 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; and

(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) and (a)(1)(ii) do not apply if the registration statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, 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.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) 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.

(c) Insofar as indemnification for liabilities arising under the Securities Act 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 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 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.

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 City of Akron, State of Ohio, on the 1st day of August, 2017.

THE GOODYEAR TIRE & RUBBER
COMPANY

By: /s/ David L. Bialosky
David L. Bialosky
Senior Vice President, General Counsel
and Secretary

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the date indicated.

| Signature | Title | Date |
|--------------------------------------|--|----------------|
| * Richard J. Kramer | Chairman of the Board, Chief Executive Officer, President and Director (Principal Executive Officer) | |
| * Laura K. Thompson | Executive Vice President and Chief Financial Officer (Principal Financial Officer) | |
| /s/ Evan M. Scocos Evan M. Scocos | Vice President and Controller (Principal Accounting Officer) | August 1, 2017 |
| * William J. Conaty | Director | |
| * James A. Firestone | Director | |
| * Werner Geissler | Director | |
| * Peter S. Hellman | Director | |

*

Laurette T. Koellner

Director

*

W. Alan McCollough

Director

John E. McGlade * Director

Michael J. Morell * Director

Roderick A. Palmore * Director

Stephanie A. Streeter * Director

Thomas H. Weidemeyer * Director

Michael R. Wessel * Director

*By: /s/ David L. Bialosky
David L. Bialosky
Attorney-in-fact for each of the persons indicated

August 1, 2017

EXHIBIT INDEX

| Exhibit Number | Description |
|---------------------------|--|
| 4.1 | Certificate of Amended Articles of Incorporation of The Goodyear Tire & Rubber Company, dated December 20, 1954, Certificate of Amendment to Amended Articles of Incorporation of the Company, dated April 6, 1993, Certificate of Amendment to Amended Articles of Incorporation of the Company, dated June 4, 1996, Certificate of Amendment to Amended Articles of Incorporation of the Company, dated April 18, 2006, Certificate of Amendment to Amended Articles of Incorporation of the Company, dated April 22, 2009, Certificate of Amendment to Amended Articles of Incorporation of the Company, dated March 30, 2011, and Certificate of Amendment to Amended Articles of Incorporation of the Company, dated April 16, 2015, together comprising the Company's Articles of Incorporation, as amended (incorporated by reference, filed as Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q for the quarter ended June 30, 2015). |
| 4.2 | Code of Regulations of The Goodyear Tire & Rubber Company, adopted November 22, 1955, and as most recently amended on February 28, 2017 (incorporated by reference, filed as Exhibit 3.1 to the Registrant's Current Report on Form 8-K, filed on March 6, 2017). |
| 4.3 | Specimen Nondenominational Certificate for Shares of the Common Stock, Without Par Value, of the Registrant (incorporated by reference, filed as Exhibit 4.1 to the Registrant's Current Report on Form 8-K, filed on May 9, 2007). |
| 4.4 | 2017 Performance Plan of The Goodyear Tire & Rubber Company (incorporated by reference, filed as Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed on April 13, 2017). |
| 5.1 | Opinion of David L. Bialosky, Esq., Senior Vice President, General Counsel and Secretary of the Registrant, as to the legality of the shares of Common Stock being registered hereby. |
| 23.1 | Consent of David L. Bialosky, Esq., Senior Vice President, General Counsel and Secretary of the Registrant (contained in Exhibit 5.1 hereto). |
| 23.2 | Consent of PricewaterhouseCoopers LLP. |
| 24.1 | Power of Attorney. |