

SEARS HOLDINGS CORP
Form 8-K
January 28, 2019

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

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934
Date of Report (Date of earliest event reported): January 28, 2019

SEARS HOLDINGS CORPORATION
(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

000-51217, 001-36693
(Commission
File Number)

20-1920798
(IRS Employer
Identification No.)

3333 Beverly Road
Hoffman Estates, Illinois **60179**
(Address of principal executive offices) **(Zip code)**
Registrant's Telephone Number, Including Area Code: (847) 286-2500

(Former Name or Former Address, If Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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 13(a) of the Exchange Act.

Item 7.01 Regulation FD Disclosure.

As previously reported, on October 15, 2018 (the *Petition Date*), Sears Holdings Corporation (the *Company*) and certain of its subsidiaries (collectively, the *Debtors*) filed voluntary petitions (the *Chapter 11 Cases*) in the United States Bankruptcy Court for the Southern District of New York (the *Bankruptcy Court*) seeking relief under chapter 11 of title 11 of the United States Code.

On December 28, 2018, the Debtors filed with the Bankruptcy Court their monthly operating report for the period beginning October 15, 2018 and ending November 3, 2018 (the *October Monthly Operating Report*), and their monthly operating report for the period beginning November 4, 2018 and ending December 1, 2018 (the *November Monthly Operating Report*). On January 25, 2019, the Debtors filed with the Bankruptcy Court their monthly operating report for the period beginning December 2, 2018 and ending January 5, 2019 (the *December Monthly Operating Report*), and together with the October Monthly Operating Report and the November Monthly Operating Report, the *Monthly Operating Reports*). The October Monthly Operating Report, the November Monthly Operating Report and the December Monthly Operating Report are attached hereto, respectively, as Exhibits 99.1, 99.2 and 99.3, and are incorporated herein by reference. This Current Report on Form 8-K (including the exhibits hereto) will not be deemed an admission as to the materiality of any information required to be disclosed solely by Regulation FD. The Monthly Operating Reports and other filings with the Bankruptcy Court related to the Chapter 11 Cases may be available electronically at <http://restructuring.primeclerk.com/sears>.

The information contained in this Item 7.01 shall not be deemed to be filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the *Exchange Act*), or otherwise subject to the liabilities of that section, and shall not be deemed to be incorporated by reference into any of the Company's filings under the Securities Act of 1933, as amended, or the Exchange Act, whether made before or after the date hereof and regardless of any general incorporation language in such filings, except to the extent expressly set forth by specific reference in such a filing.

Cautionary Statement Regarding the Monthly Operating Reports

The Company cautions investors and potential investors not to place undue reliance upon the information contained in the Monthly Operating Reports, which were not prepared for the purpose of providing the basis for an investment decision relating to any of the securities of the Company. The Monthly Operating Reports are limited in scope, cover a limited time period and have been prepared solely for the purpose of complying with the monthly reporting requirements of the Bankruptcy Court. The Monthly Operating Reports were not audited or reviewed by independent accountants, were not prepared in accordance with generally accepted accounting principles in the United States, are in a format prescribed by applicable bankruptcy laws or rules, and are subject to future adjustment and reconciliation. There can be no assurance that, from the perspective of an investor or potential investor in the Company's securities, the Monthly Operating Reports are complete. The Monthly Operating Reports also contain information for periods which are shorter or otherwise different from those required in the Company's reports pursuant to the Exchange Act, and such information might not be indicative of the Company's financial condition or operating results for the period that would be reflected in the Company's financial statements or in its reports pursuant to the Exchange Act. Results set forth in the Monthly Operating Reports should not be viewed as indicative of future results.

Furthermore, this Form 8-K and/or the Monthly Operating Reports may include forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. All statements, other than statements of historical facts, included in this filing that address activities, events or developments that the Company expects, believes, targets or anticipates will or may occur in the future are forward-looking statements. The Company's actual results may differ materially from those anticipated in these forward-looking statements as a result of certain risks and other factors, which could include the following: the failure to obtain approval of that certain Asset Purchase Agreement entered into by the Company and certain of its subsidiaries with Transform Holdco LLC (the *Buyer*), an affiliate of ESL Investments, Inc., as of January 17, 2019 (the *Purchase Agreement*) by the Bankruptcy Court or, if the Purchase

Agreement is approved by the Bankruptcy Court, to consummate the transaction therefrom pursuant to which the Buyer agreed to acquire substantially all of the go-forward retail footprint and other assets and component businesses of the Company as a going concern, risks and uncertainties relating to the Chapter 11 Cases, including but not limited to, the Company's ability to obtain Bankruptcy Court approval with respect to motions in the Chapter 11 Cases, the effects of the Chapter 11 Cases on the Company and on the interests of various constituents, Bankruptcy Court rulings in the Chapter 11 Cases and the outcome of the Chapter 11 Cases in general, the length of time the Company will operate under the Chapter 11 Cases, risks associated with third-party motions in the Chapter 11 Cases, the potential adverse effects of the Chapter 11 Cases on the Company's liquidity or results of operations and increased legal and other professional costs necessary to execute the Company's reorganization; the conditions to which the Company's debtor-in-possession financing is subject and the risk that these conditions may not be satisfied for various reasons, including for reasons outside of the Company's control; the impact of and ability to successfully implement store closures; the Company's ability to consummate sales of assets and the terms and conditions of any such sales, including the Go Forward Stores; the Company's ability to implement operational improvement efficiencies; uncertainty associated with evaluating and completing any strategic or financial alternative as well as the Company's ability to implement and realize any anticipated benefits associated with any alternative that may be pursued, including the asset sales and wind down of operations; the consequences of the acceleration of our debt obligations; trading price and volatility of the Company's common stock and the risks related to the Company's delisting from Nasdaq and trading on the OTC Pink Market; as well as other risk factors set forth in the Company's Annual Report on Form 10-K and Quarterly Reports on Form 10-Q filed with the Securities and Exchange Commission. The Company therefore cautions readers against relying on these forward-looking statements. All forward-looking statements attributable to the Company or

persons acting on the Company's behalf are expressly qualified in their entirety by the foregoing cautionary statements. All such statements speak only as of the date made, and, except as required by law, the Company undertakes no obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

- 99.1 Monthly Operating Report for the period ended November 3, 2018, filed with the United States Bankruptcy Court for the Southern District of New York
- 99.2 Monthly Operating Report for the period ended December 1, 2018, filed with the United States Bankruptcy Court for the Southern District of New York
- 99.3 Monthly Operating Report for the period ended January 5, 2019, filed with the United States Bankruptcy Court for the Southern District of New York

Exhibit Index

Exhibit No.	Exhibit
99.1	<u>Monthly Operating Report for the period ended November 3, 2018, filed with the United States Bankruptcy Court for the Southern District of New York</u>
99.2	<u>Monthly Operating Report for the period ended December 1, 2018, filed with the United States Bankruptcy Court for the Southern District of New York</u>
99.3	<u>Monthly Operating Report for the period ended January 5, 2019, filed with the United States Bankruptcy Court for the Southern District of New York</u>

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

SEARS HOLDINGS CORPORATION

By: /s/ Robert A. Riecker
Robert A. Riecker
Member of the Office of the Chief Executive and
Chief Financial Officer

Dated: January 28, 2019