

FLOWERS FOODS INC
Form S-8
June 18, 2008

As filed with the Securities and Exchange Commission on June 18, 2008

Registration No. 333-_____

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

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

FLOWERS FOODS, INC.

(Exact name of issuer as specified in its charter)

Georgia

(State or other jurisdiction of
incorporation or organization)

58-2582379

(I.R.S. Employer
Identification No.)

1919 Flowers Circle, Thomasville, Georgia 31757

(Address of principal executive offices)

FLOWERS FOODS, INC. 401(K) RETIREMENT SAVINGS PLAN

(Full title of the plan)

**Stephen R. Avera, Esq.
Executive Vice President,
Secretary and
General Counsel
Flowers Foods, Inc.
1919 Flowers Circle
Thomasville, Georgia 31757**

(Name and address of agent for service)

(229) 226-9110

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

With a copy to:

**Sterling A. Spainhour, Jr., Esq.
Jones Day
1420 Peachtree St., NE
Suite 800
Atlanta, GA 30309-3053
(404) 521-3939**

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)

o

Smaller reporting company

o

CALCULATION OF REGISTRATION FEE

| Title of Each Class 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, \$0.01 Par Value, together with Preferred Share Purchase Rights (3) | 1,500,000 | \$ 27.28 | \$40,920,000 | \$1,609 (2) |

(1) The shares of common stock which may be offered pursuant to this registration statement include, pursuant to Rule 416 under the Securities Act of 1933, as amended, such additional number of shares of common stock as may become issuable as a result of any stock splits, stock dividends or similar events.

(2) Estimated solely for calculating the amount of the registration fee pursuant to paragraphs (c) and (h) of Rule 457 of the Securities Act

of 1933, as amended, the price per share is based on the average of the high and low prices of the common stock on the New York Stock Exchange on June 11, 2008.

- (3) In addition, pursuant to Rule 416(c) under the Securities Act of 1933, as amended, this registration statement covers an indeterminate amount of interests to be offered or sold pursuant to the employee benefit plan described herein.
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EXPLANATORY NOTE

This Registration Statement on Form S-8 (this Registration Statement) relating to the Flowers Foods, Inc. 401(k) Retirement Savings Plan (the Plan), is being filed to register additional 1,500,000 securities of the same class as other securities for which a previously filed registration statement on Form S-8 relating to the Plan is effective. Pursuant to General Instruction E of Form S-8, this Registration Statement incorporates by reference the contents of the Registration Statement on Form S-8 (Registration No. 333-58320) and Post-Effective Amendment No. 1 to Form S-8 filed May 31, 2001 (Registration No. 333-58320) filed by Flowers Foods, Inc. (the Company) with the Securities and Exchange Commission (the Commission) with respect to the Plan, including all attachments and exhibits thereto.

ITEM 8. EXHIBITS.

| Exhibit Number | Description |
|----------------|---|
| 4.1 | Restated Articles of Incorporation of Flowers Foods, Inc. as amended on June 1, 2007 (Incorporated by reference to the Company's Quarterly Report on Form 10-Q, dated August 23, 2007, File No. 1-16247). |
| 4.2 | Articles of Amendment to the Restated Articles of Incorporation of Flowers Foods, Inc. (Incorporated by reference to the Company's Current Report on Form 8-K, dated June 2, 2008, File No. 1-16247). |
| 4.3 | Amended and Restated Bylaws of Flowers Foods, Inc. as amended on February 8, 2008 (Incorporated by reference to the Company's Current Report on Form 8-K/A dated February 25, 2008, File No. 1-16247). |
| 4.4 | Share Certificate of Common Stock of Flowers Foods, Inc. (Incorporated by reference to the Company's Annual Report on Form 10-K, dated March 30, 2001, File No. 1-16247). |
| 4.5 | Rights Agreement between Flowers Foods, Inc. and First Union National Bank, as rights agent, dated March 23, 2001 (Incorporated by reference to the Company's Annual Report on Form 10-K, dated March 30, 2001, File No. 1-16247). |
| 4.6 | Amendment No. 1, dated November 15, 2002, to Rights Agreement between Flowers Foods, Inc. and Wachovia Bank, N.A. (as successor in interest to First Union National Bank), as rights agent, dated March 23, 2001. (Incorporated by reference to the Company's Registration Statement on Form 8-A, dated November 18, 2002, File No. 1-16247). |
| 4.7 | Flowers Foods, Inc. 401(k) Retirement Savings Plan, as amended and restated effective as of April 1, 2001 (Incorporated by reference to the Company's Registration Statement on Form S-8, dated April 5, 2001, File No. 333-58320). |
| 23.1* | Consent of PricewaterhouseCoopers, LLP, independent registered public accounting firm. |
| 24.1* | Power of Attorney. |

* Filed herewith

The registrant hereby undertakes that it has submitted or will submit the Plan and any amendment thereto to the Internal Revenue Service (IRS) in a timely manner and has made or will make all changes required by the IRS in order to perfect the tax qualified status of the Plan.

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 Thomasville, State of Georgia, on the 18th day of June, 2008.

FLOWERS FOODS, INC.

/s/ R. Steve Kinsey
R. Steve Kinsey
Executive Vice President and Chief
Financial Officer

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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 |
|---|--|---------------|
| * George E. Deese /s/ R. Steve Kinsey | Chairman of the Board, President and Chief Executive Officer (Principal Executive Officer) | June 18, 2008 |
| R. Steve Kinsey * | Executive Vice President and Chief Financial Officer (Principal Financial Officer) | June 18, 2008 |
| Karyl H. Lauder * | Senior Vice President and Chief Accounting Officer (Principal Accounting Officer) | June 18, 2008 |
| Joe E. Beverly * | Director | June 18, 2008 |
| Franklin L. Burke * | Director | June 18, 2008 |
| Manuel A. Fernandez * | Director | June 18, 2008 |
| Benjamin H. Griswold, IV * | Director | June 18, 2008 |
| Joseph L. Lanier, Jr. * | Director | June 18, 2008 |
| Amos R. McMullian * | Director | June 18, 2008 |
| J.V. Shields, Jr. * | Director | June 18, 2008 |
| Melvin T. Stith, Ph.D. * | Director | June 18, 2008 |
| Jackie M. Ward * | Director | June 18, 2008 |
| C. Martin Wood III | | |

By: */s/ Stephen R. Avera
Stephen R. Avera
ATTORNEY-IN-FACT

The Plan. Pursuant to the requirements of the Securities Act of 1933, the administrator of The Flowers Foods, Inc. 401(k) Retirement Savings Plan has caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Thomasville, State of Georgia on June 18, 2008.

By: /s/ Donald A. Thriffiley, Jr.
Donald A. Thriffiley, Jr.
Plan Administrator

EXHIBIT INDEX

| Exhibit Number | Description |
|-------------------|--|
| 23.1 | Consent of PricewaterhouseCoopers, LLP, independent registered public accounting firm. |
| 24.1 | Power of Attorney. |