

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

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended **March 31, 2013**

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period
from _____ to _____

Commission file number 1-183

THE HERSHEY COMPANY

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation
or organization)

23-0691590

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

100 Crystal A Drive, Hershey, PA
17033

(Address of principal executive offices)
(Zip Code)

717-534-4200

(Registrant's telephone number, including area code)

Not Applicable

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

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)

Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Common Stock, \$1 par value – 163,101,614 shares, as of April 19, 2013. Class B Common Stock,
\$1 par value – 60,628,572 shares, as of April 19, 2013.

**THE HERSHEY COMPANY
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PART I - FINANCIAL INFORMATION

Item 1. Consolidated Financial Statements (Unaudited)

THE HERSHEY COMPANY
CONSOLIDATED STATEMENTS OF INCOME
(in thousands except per share amounts)

| | For the Three Months Ended | |
|--|----------------------------|------------------|
| | March 31, 2013 | April 1, 2012 |
| Net Sales | \$ 1,827,426 | \$ 1,732,064 |
| Costs and Expenses: | | |
| Cost of sales | 978,089 | 988,668 |
| Selling, marketing and administrative | 450,669 | 405,562 |
| Business realignment and impairment charges, net | 6,851 | 3,304 |
| Total costs and expenses | 1,435,609 | 1,397,534 |
| Income before Interest and Income Taxes | 391,817 | 334,530 |
| Interest expense, net | 23,633 | 24,024 |
| Income before Income Taxes | 368,184 | 310,506 |
| Provision for income taxes | 126,278 | 111,855 |
| Net Income | \$ 241,906 | \$ 198,651 |
| Earnings Per Share - Basic - Class B Common Stock | \$ 1.00 | \$.82 |
| Earnings Per Share - Diluted - Class B Common Stock | \$ 0.99 | \$.81 |
| Earnings Per Share - Basic - Common Stock | \$ 1.11 | \$.91 |
| Earnings Per Share - Diluted - Common Stock | \$ 1.06 | \$.87 |
| Average Shares Outstanding - Basic - Common Stock | 163,776 | 164,603 |
| Average Shares Outstanding - Basic - Class B Common Stock | 60,629 | 60,631 |
| Average Shares Outstanding - Diluted | 227,706 | 228,655 |
| Cash Dividends Paid Per Share: | | |
| Common Stock | \$.42 | \$.380 |
| Class B Common Stock | \$.38 | \$.344 |

The accompanying notes are an integral part of these consolidated financial statements.

THE HERSHEY COMPANY
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(in thousands of dollars)

| | For the Three Months Ended | |
|---|-----------------------------------|--------------------------|
| | March 31, 2013 | April 1, 2012 |
| Net Income | \$ 241,906 | \$ 198,651 |
| Other comprehensive income (loss), net of tax: | | |
| Foreign currency translation adjustments | 123 | 12,739 |
| Pension and post-retirement benefit plans | 6,769 | 5,993 |
| Cash flow hedges: | | |
| (Losses) gains on cash flow hedging derivatives | (1,773) | 10,005 |
| Reclassification adjustments | 3,617 | 17,291 |
| Total other comprehensive income, net of tax | 8,736 | 46,028 |
| Comprehensive Income | \$ 250,642 | \$ 244,679 |

The accompanying notes are an integral part of these consolidated financial statements.

THE HERSHEY COMPANY
CONSOLIDATED BALANCE SHEETS
(in thousands of dollars)

| ASSETS | March 31, 2013 | December 31, 2012 |
|---|-------------------|----------------------|
| Current Assets: | | |
| Cash and cash equivalents | \$ 730,096 | \$ 728,272 |
| Accounts receivable - trade | 516,593 | 461,383 |
| Inventories | 626,643 | 633,262 |
| Deferred income taxes | 119,812 | 122,224 |
| Prepaid expenses and other | 186,877 | 168,344 |
| Total current assets | 2,180,021 | 2,113,485 |
| Property, Plant and Equipment, at cost | | |
| | 3,624,875 | 3,560,626 |
| Less-accumulated depreciation and amortization | (1,919,488) | (1,886,555) |
| Net property, plant and equipment | 1,705,387 | 1,674,071 |
| Goodwill | | |
| | 585,735 | 588,003 |
| Other Intangibles | | |
| | 210,071 | 214,713 |
| Deferred Income Taxes | | |
| | 16,793 | 12,448 |
| Other Assets | | |
| | 147,623 | 152,119 |
| Total assets | \$ 4,845,630 | \$ 4,754,839 |
| LIABILITIES AND STOCKHOLDERS' EQUITY | | |
| Current Liabilities: | | |
| Accounts payable | \$ 412,319 | \$ 441,977 |
| Accrued liabilities | 620,420 | 650,906 |
| Accrued income taxes | 105,922 | 2,329 |
| Short-term debt | 100,552 | 118,164 |
| Current portion of long-term debt | 252,854 | 257,734 |
| Total current liabilities | 1,492,067 | 1,471,110 |
| Long-term Debt | | |
| | 1,539,800 | 1,530,967 |
| Other Long-term Liabilities | | |
| | 666,175 | 668,732 |
| Deferred Income Taxes | | |
| | 35,024 | 35,657 |
| Total liabilities | 3,733,066 | 3,706,466 |
| Stockholders' Equity: | | |
| The Hershey Company Stockholders' Equity | | |
| Preferred Stock, shares issued: none in 2013 and 2012 | — | — |
| Common Stock, shares issued: 299,273,172 in 2013 and 299,272,927 in 2012 | 299,272 | 299,272 |
| Class B Common Stock, shares issued: 60,628,572 in 2013 and 60,628,817 in 2012 | 60,629 | 60,629 |
| Additional paid-in capital | 608,656 | 592,975 |
| Retained earnings | 5,177,919 | 5,027,617 |
| Treasury-Common Stock shares at cost: 136,294,479 in 2013 and 136,115,714 in 2012 | (4,669,703) | (4,558,668) |
| Accumulated other comprehensive loss | (376,339) | (385,076) |
| The Hershey Company stockholders' equity | 1,100,434 | 1,036,749 |
| Noncontrolling interests in subsidiaries | 12,130 | 11,624 |
| Total stockholders' equity | 1,112,564 | 1,048,373 |
| Total liabilities and stockholders' equity | \$ 4,845,630 | \$ 4,754,839 |

The accompanying notes are an integral part of these consolidated balance sheets.

THE HERSHEY COMPANY
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands of dollars)

| | For the Three Months Ended | |
|---|-----------------------------------|--------------------------|
| | March 31, 2013 | April 1, 2012 |
| Cash Flows Provided from (Used by) Operating Activities | | |
| Net Income | \$ 241,906 | \$ 198,651 |
| Adjustments to Reconcile Net Income to Net Cash | | |
| Provided from Operations: | | |
| Depreciation and amortization | 48,748 | 54,868 |
| Stock-based compensation expense | 12,454 | 11,535 |
| Excess tax benefits from stock-based compensation | (28,088) | (10,566) |
| Deferred income taxes | (7,793) | (954) |
| Non-cash business realignment and impairment charges | — | 9,104 |
| Contributions to pension and other benefit plans | (6,114) | (6,331) |
| Changes in assets and liabilities, net of effects from business acquisitions: | | |
| Accounts receivable - trade | (55,210) | (91,631) |
| Inventories | (2,181) | (21,364) |
| Accounts payable | (6,497) | (16,673) |
| Other assets and liabilities | 95,955 | 149,163 |
| Net Cash Flows Provided from Operating Activities | 293,180 | 275,802 |
| Cash Flows Provided from (Used by) Investing Activities | | |
| Capital additions | (90,592) | (88,487) |
| Capitalized software additions | (3,119) | (3,240) |
| Proceeds from sales of property, plant and equipment | 420 | — |
| Loan to affiliate | — | (9,000) |
| Business acquisitions | — | (172,856) |
| Net Cash Flows Used by Investing Activities | (93,291) | (273,583) |
| Cash Flows Provided from (Used by) Financing Activities | | |
| Net (decrease) increase in short-term debt | (18,520) | 108,629 |
| Long-term borrowings | 1,543 | 49 |
| Repayment of long-term debt | (41) | (1,513) |
| Cash dividends paid | (91,604) | (83,533) |
| Exercise of stock options | 85,043 | 54,111 |
| Excess tax benefits from stock-based compensation | 28,088 | 10,566 |
| Contributions from noncontrolling interests | 1,470 | 1,470 |
| Repurchase of Common Stock | (204,044) | (218,345) |
| Net Cash Flows Used by Financing Activities | (198,065) | (128,566) |
| Increase (decrease) in Cash and Cash Equivalents | 1,824 | (126,347) |
| Cash and Cash Equivalents, beginning of period | 728,272 | 693,686 |
| Cash and Cash Equivalents, end of period | \$ 730,096 | \$ 567,339 |
| <hr/> | | |
| Interest Paid | \$ 29,183 | \$ 31,393 |
| Income Taxes Paid | \$ 74 | \$ 7,583 |

The accompanying notes are an integral part of these consolidated financial statements.

THE HERSHEY COMPANY
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. BASIS OF PRESENTATION

Our unaudited consolidated financial statements provided in this report include the accounts of the Company and our majority-owned subsidiaries and entities in which we have a controlling financial interest after the elimination of intercompany accounts and transactions. We have a controlling financial interest if we own a majority of the outstanding voting common stock and the noncontrolling shareholders do not have substantive participating rights, or we have significant control over an entity through contractual or economic interests in which we are the primary beneficiary. We prepared these statements in accordance with the instructions to Form 10-Q. The financial statements were prepared in accordance with U.S. generally accepted accounting principles (“GAAP”) for interim reporting. These statements do not include all of the information and footnotes required by GAAP for complete financial statements.

Our significant interim accounting policies include the recognition of a pro-rata share of certain estimated annual amounts primarily for raw material purchase price variances, advertising expense, incentive compensation expenses and the effective income tax rate.

We included all adjustments (consisting only of normal recurring accruals) which we believe were considered necessary for a fair presentation. We reclassified certain prior year amounts to conform to the 2013 presentation. An adjustment was made to the Consolidated Statement of Cash Flows for the three months ended April 1, 2012, to reflect a loan to affiliate of \$9.0 million in Net Cash Used by Investing Activities. This adjustment resulted in a corresponding reduction to Net Cash Used by Financing Activities.

Operating results for the three months ended March 31, 2013 may not be indicative of the results that may be expected for the year ending December 31, 2013, because of the seasonal effects of our business. For more information, refer to the consolidated financial statements and notes included in our 2012 Annual Report on Form 10-K.

2. BUSINESS ACQUISITIONS

Acquisitions of businesses are accounted for as purchases and, accordingly, their results of operations are included in the consolidated financial statements since the respective dates of the acquisitions. The purchase price for business acquisitions is allocated to the assets acquired and liabilities assumed.

In January 2012, we acquired all of the outstanding stock of Brookside Foods Ltd. (“Brookside”), a privately held confectionery company based in Abbotsford, British Columbia, Canada. As part of this transaction, we acquired two production facilities located in British Columbia and Quebec. The Brookside product line is primarily sold in the U.S. and Canada in a take home re-sealable pack type. The purchase price for the acquisition was approximately \$172.9 million.

The excess purchase price over the estimated value of the net tangible and identifiable intangible assets was recorded to goodwill. The goodwill is not expected to be deductible for tax purposes.

We included results subsequent to the acquisition date in the consolidated financial statements. If we had included the results of the acquisition in the consolidated financial statements for each of the periods presented, the effect would not have been material.

3. NONCONTROLLING INTERESTS IN SUBSIDIARIES

In May 2007, we entered into an agreement with Godrej Beverages and Foods, Ltd., a consumer goods, confectionery and food company, to manufacture and distribute confectionery products, snacks and beverages across India. Under the agreement, we owned a 51% controlling interest in Godrej Hershey Ltd. The noncontrolling interests in Godrej Hershey Ltd. were included in the equity section of the Consolidated Balance Sheets. In September 2012, we acquired the remaining 49% interest in Godrej Hershey Ltd. for approximately \$15.8 million. Since the Company had a controlling interest in Godrej Hershey Ltd., the difference between the amount paid and the carrying amount of the noncontrolling interest of \$10.3 million was recorded as a reduction to additional paid-in capital and the noncontrolling interest in Godrej Hershey Ltd. was eliminated as of September 30, 2012.

We own a 51% controlling interest in Hershey do Brasil under a cooperative agreement with Pandurata Netherlands B.V. (“Bauducco”), a leading manufacturer of baked goods in Brazil whose primary brand is Bauducco. During the first

quarters of 2013 and 2012, the Company and Bauducco each contributed cash of approximately \$1.5 million to Hershey do Brasil. The noncontrolling interest in Hershey do Brasil is included in the equity section of the Consolidated Balance Sheets.

The increase in noncontrolling interests in subsidiaries from \$11.6 million as of December 31, 2012 to \$12.1 million as of March 31, 2013 reflected the impact of the cash contributed by Bauducco. These increases were partially offset by the impact of the noncontrolling interests' share of losses of these entities, as well as the impact of currency translation adjustments. The share of losses pertaining to the noncontrolling interests in subsidiaries was \$1.1 million for the three months ended March 31, 2013 and \$4.0 million for the three months ended April 1, 2012. This was reflected in selling, marketing and administrative expenses.

4. STOCK COMPENSATION PLANS

The Hershey Company Equity and Incentive Compensation Plan ("EICP") is the plan under which grants using shares for compensation and incentive purposes are made. The following table summarizes our stock compensation costs:

| In millions of dollars | For the Three Months Ended | |
|--|----------------------------|------------------|
| | March 31, 2013 | April 1, 2012 |
| Total compensation amount charged against income for stock options, performance stock units ("PSUs") and restricted stock units ("RSUs") | \$ 12.5 | \$ 11.5 |
| Total income tax benefit recognized in the Consolidated Statements of Income for share-based compensation | \$ 4.3 | \$ 4.1 |

The increase in share-based compensation expense for the first quarter of 2013 was driven by an increase in the compensation amount upon which the number of stock-based awards granted in 2013 was based.

Stock Options

A summary of the status of our stock options as of March 31, 2013, and the change during 2013 is presented below:

| Stock Options | For the Three Months Ended March 31, 2013 | | |
|--|---|---------------------------------|---|
| | Shares | Weighted-Average Exercise Price | Weighted-Average Remaining Contractual Term |
| Outstanding at beginning of the period | 10,553,914 | \$48.08 | 6.1 years |
| Granted | 1,722,194 | \$81.66 | |
| Exercised | (1,921,544) | \$45.00 | |
| Forfeited | (34,704) | \$64.54 | |
| Outstanding as of March 31, 2013 | 10,319,860 | \$54.22 | 6.8 years |
| Options exercisable as of March 31, 2013 | 5,585,086 | \$46.02 | 5.1 years |

| | For the Three Months Ended | |
|---|----------------------------|------------------|
| | March 31, 2013 | April 1, 2012 |
| Weighted-average fair value of options granted (per share) | \$14.40 | \$10.53 |
| Intrinsic value of options exercised (in millions of dollars) | \$69.1 | \$27.1 |

We estimated the fair value of each stock option grant on the date of the grant using a Black-Scholes option-pricing model and the weighted-average assumptions set forth in the following table:

| | For the Three Months Ended | |
|--------------------------|-----------------------------------|--------------------------|
| | March 31, 2013 | April 1, 2012 |
| Dividend yields | 2.2% | 2.4% |
| Expected volatility | 22.2% | 22.4% |
| Risk-free interest rates | 1.4% | 1.5% |
| Expected lives in years | 6.6 | 6.6 |

As of March 31, 2013, the aggregate intrinsic value of options outstanding was \$312.1 million and the aggregate intrinsic value of options exercisable was \$214.7 million.

As of March 31, 2013, there was \$35.9 million of total unrecognized compensation cost related to non-vested stock option compensation arrangements granted under our stock option plans. That cost is expected to be recognized over a weighted-average period of 2.0 years.

Performance Stock Units and Restricted Stock Units

A summary of the status of our PSUs and RSUs as of March 31, 2013, and the change during 2013 is presented below:

| Performance Stock Units and Restricted Stock Units | For the Three Months Ended March 31, 2013 | Weighted-average grant date fair value for equity awards or market value for liability awards |
|---|--|--|
| Outstanding at beginning of year | 1,720,577 | \$56.71 |
| Granted | 337,797 | \$87.70 |
| Vested | (656,832) | \$49.05 |
| Forfeited | (11,948) | \$59.15 |
| Outstanding as of March 31, 2013 | <u>1,389,594</u> | <u>\$70.00</u> |

The table above excludes PSU awards for 40,812 units as of December 31, 2012 and 30,713 units as of March 31, 2013 for which the measurement date has not yet occurred for accounting purposes.

The following table sets forth information about the fair value of the PSUs and RSUs granted for potential future distribution to employees and directors during the year. In addition, the table provides assumptions used to determine the fair value of the market-based total shareholder return component of the PSU grants using a Monte Carlo simulation model on the date of grant:

| | For the Three Months Ended | |
|--|-----------------------------------|--------------------------|
| | March 31, 2013 | April 1, 2012 |
| Units granted | 337,797 | 374,229 |
| Weighted-average fair value at date of grant | \$ 87.70 | \$ 62.98 |
| Monte Carlo simulation assumptions: | | |
| Estimated values | \$ 55.49 | \$ 35.62 |
| Dividend yields | 2.0% | 2.5% |
| Expected volatility | 17.1% | 20.0% |

As of March 31, 2013, there was \$57.0 million of unrecognized compensation cost relating to non-vested PSUs and RSUs. We expect to recognize that cost over a weighted-average period of 2.1 years.

| | For the Three Months Ended | |
|---|-----------------------------------|--------------------------|
| | March 31, 2013 | April 1, 2012 |
| Intrinsic value of share-based liabilities paid, combined with the fair value of shares vested (in millions of dollars) | \$ 53.6 | \$ 32.8 |

The higher amount in 2013 was primarily due to the higher stock price at distribution in the first quarter of 2013 compared with first quarter of 2012.

Deferred performance stock units, deferred restricted stock units, and directors' fees and accumulated dividend amounts representing deferred stock units totaled 598,261 units as of March 31, 2013. Each unit is equivalent to one share of the Company's Common Stock.

No stock appreciation rights were outstanding as of March 31, 2013.

For more information on our stock compensation plans, refer to the consolidated financial statements and notes included in our 2012 Annual Report on Form 10-K and our proxy statement for the 2013 annual meeting of stockholders.

5. INTEREST EXPENSE

Net interest expense consisted of the following:

| | For the Three Months Ended | |
|--------------------------------|-----------------------------------|--------------------------|
| | March 31, 2013 | April 1, 2012 |
| In thousands of dollars | | |
| Interest expense | \$ 24,658 | \$ 26,945 |
| Interest income | (708) | (646) |
| Capitalized interest | (317) | (2,275) |
| Interest expense, net | <u>\$ 23,633</u> | <u>\$ 24,024</u> |

6. BUSINESS REALIGNMENT AND IMPAIRMENT CHARGES

In June 2010, we announced Project Next Century (the "Next Century program") as part of our ongoing efforts to create an advantaged supply chain and competitive cost structure. As part of the program, production was to transition from the Company's century-old facility at 19 East Chocolate Avenue in Hershey, Pennsylvania, to an expanded West Hershey facility, which was initially constructed in 1992. Production from the 19 East Chocolate Avenue plant, as well as a portion of the workforce, has transitioned to the West Hershey facility.

We estimate that the Next Century program will incur total pre-tax charges and non-recurring project implementation costs of \$190 million to \$200 million. This estimate includes \$170 million to \$180 million in pre-tax business realignment and impairment charges and approximately \$20.0 million in project implementation and start-up costs. Total costs of \$76.3 million were recorded in 2012, total costs of \$43.4 million were recorded in 2011 and total costs of \$53.9 million were recorded in 2010.

Business realignment and impairment charges recorded during the three-month periods ended March 31, 2013 and April 1, 2012 were as follows:

| | For the Three Months Ended | |
|--|-----------------------------------|--------------------------|
| | March 31, 2013 | April 1, 2012 |
| In thousands of dollars | | |
| Cost of sales – Next Century program | \$ 127 | \$ 19,454 |
| Selling, marketing and administrative – Next Century program | 6 | 813 |
| Business realignment and impairment charges (credits), net | | |
| Next Century program | | |
| Plant closure expenses | 6,851 | 2,490 |
| Employee separation costs (credits) | — | 814 |
| Total business realignment and impairment charges, net | 6,851 | 3,304 |
| Total business realignment and impairment charges | \$ 6,984 | \$ 23,571 |

Next Century Program

A charge of \$0.1 million was recorded in cost of sales during the first quarter of 2013 related primarily to start-up costs associated with the Next Century program. Expenses of \$6.9 million were recorded in the first quarter of 2013 primarily related to costs associated with the demolition of a former manufacturing facility.

A charge of \$19.5 million was recorded in cost of sales during the first quarter of 2012 related primarily to the accelerated depreciation of fixed assets over a reduced remaining useful life and start-up costs associated with the Next Century program. A charge of \$0.8 million was recorded in selling, marketing and administrative expenses in the first quarter of 2012 related primarily to project administration for the Next Century program. Plant closure expenses of \$2.5 million were recorded in the first quarter of 2012 primarily related to costs associated with the relocation of production lines. Employee separation costs were \$0.8 million for the Next Century program in the first quarter of 2012, reflecting expected costs related to voluntary and involuntary terminations.

The March 31, 2013 liability balance relating to the Next Century program was \$4.3 million for estimated building remediation and employee separation costs which were recorded in 2010 and 2011. During the first three months of 2013, we made payments against the liabilities of \$3.2 million primarily related to employee separation costs.

7. EARNINGS PER SHARE

We compute Basic and Diluted Earnings Per Share based on the weighted-average number of shares of the Common Stock and the Class B Common Stock outstanding as follows:

| | For the Three Months Ended | |
|--|----------------------------|------------------|
| | March 31, 2013 | April 1, 2012 |
| In thousands except per share amounts | | |
| Net income | \$ 241,906 | \$ 198,651 |
| Weighted-average shares - Basic | | |
| Common Stock | 163,776 | 164,603 |
| Class B Common Stock | 60,629 | 60,631 |
| Total weighted- average shares - Basic | 224,405 | 225,234 |
| Effect of dilutive securities: | | |
| Employee stock options | 2,584 | 2,663 |
| Performance and restricted stock units | 717 | 758 |
| Weighted-average shares - Diluted | 227,706 | 228,655 |
| Earnings Per Share - Basic | | |
| Class B Common Stock | \$ 1.00 | \$ 0.82 |
| Common Stock | \$ 1.11 | \$ 0.91 |
| Earnings Per Share - Diluted | | |
| Class B Common Stock | \$ 0.99 | \$ 0.81 |
| Common Stock | \$ 1.06 | \$ 0.87 |

The Class B Common Stock is convertible into Common Stock on a share for share basis at any time. The calculation of earnings per share-diluted for the Class B Common Stock was performed using the two-class method and the calculation of earnings per share-diluted for the Common Stock was performed using the if-converted method.

| | For the Three Months Ended | |
|---|----------------------------|------------------|
| | March 31, 2013 | April 1, 2012 |
| In millions | | |
| Stock options excluded from diluted earnings per share calculations because the effect would have been antidilutive | 1.8 | 3.5 |

8. DERIVATIVE INSTRUMENTS AND HEDGING ACTIVITIES

We account for derivative instruments in accordance with Financial Accounting Standards Board accounting standards which require us to recognize all derivative instruments at fair value. We classify derivatives as assets or liabilities on the balance sheet. As of March 31, 2013 and December 31, 2012, all of our derivative instruments were classified as cash flow hedges.

The fair value of derivative instruments in the Consolidated Balance Sheet as of March 31, 2013 was as follows:

| Balance Sheet Caption | Interest Rate Swap Agreements | Foreign Exchange Forward Contracts and Options | Commodities Futures and Options Contracts |
|--|----------------------------------|---|---|
| In thousands of dollars | | | |
| Prepaid expense and other current assets | \$ — | \$ 1,481 | \$ 2,610 |
| Other long-term assets | \$ 3,414 | \$ — | \$ — |
| Accrued liabilities | \$ 73 | \$ 817 | \$ — |

The fair value of derivative instruments in the Consolidated Balance Sheet as of December 31, 2012 was as follows:

| Balance Sheet Caption | Interest Rate Swap Agreements | Foreign Exchange Forward Contracts and Options | Commodities Futures and Options Contracts |
|--|----------------------------------|---|---|
| In thousands of dollars | | | |
| Prepaid expense and other current assets | \$ — | \$ 2,119 | \$ — |
| Accrued liabilities | \$ 12,502 | \$ 917 | \$ 2,010 |
| Other long-term liabilities | \$ 922 | \$ — | \$ — |

The fair value of the interest rate swap agreements represents the difference in the present values of cash flows calculated at the contracted interest rates and at current market interest rates at the end of the period. We calculate the fair value of interest rate swap agreements quarterly based on the quoted market price for the same or similar financial instruments.

The fair value of foreign exchange forward contracts and options is the amount of the difference between the contracted and current market foreign currency exchange rates at the end of the period. We estimate the fair value of foreign exchange forward contracts and options on a quarterly basis by obtaining market quotes of spot and forward rates for contracts with similar terms, adjusted where necessary for maturity differences. As of March 31, 2013, the fair value of foreign exchange forward contracts with gains totaled \$1.5 million and the fair value of foreign exchange forward contracts with losses totaled \$0.8 million.

As of March 31, 2013, prepaid expense and other current assets associated with commodities futures and options contracts were associated with cash transfers receivable on commodities futures contracts reflecting the change in quoted market prices on the last trading day for the period. We make or receive cash transfers to or from commodity futures brokers on a daily basis reflecting changes in the value of futures contracts on the IntercontinentalExchange or various other exchanges. These changes in value represent unrealized gains and losses.

The effect of derivative instruments on the Consolidated Statements of Income for the three months ended March 31, 2013 was as follows:

| Cash Flow Hedging Derivatives | Interest Rate Swap Agreements | Foreign Exchange Forward Contracts and Options | Commodities Futures and Options Contracts |
|--|----------------------------------|--|---|
| In thousands of dollars | | | |
| Gains (losses) recognized in other comprehensive income ("OCI") (effective portion) | \$ 7,733 | \$ (1,507) | \$ (9,320) |
| Gains (losses) reclassified from accumulated OCI into income (effective portion) (a) | \$ (912) | \$ 869 | \$ (5,800) |
| Gains (losses) recognized in income (ineffective portion) (b) | \$ (428) | \$ — | \$ 388 |

The effect of derivative instruments on the Consolidated Statements of Income for the three months ended April 1, 2012 was as follows:

| Cash Flow Hedging Derivatives | Interest Rate Swap Agreements | Foreign Exchange Forward Contracts and Options | Commodities Futures and Options Contracts |
|--|--|---|--|
| In thousands of dollars | | | |
| Gains (losses) recognized in other comprehensive income ("OCI") (effective portion) | \$ — | \$ 1,669 | \$ 14,825 |
| Gains (losses) reclassified from accumulated OCI into income (effective portion) (a) | \$ (924) | \$ (1,100) | \$ (26,000) |
| Gains (losses) recognized in income (ineffective portion) (b) | \$ — | \$ — | \$ 651 |

- (a) Gains (losses) reclassified from accumulated OCI into earnings were included in cost of sales for commodities futures and options contracts and for foreign exchange forward contracts and options designated as hedges of purchases of inventory. Other gains and losses for foreign exchange forward contracts and options were included in selling, marketing and administrative expenses. Gains (losses) reclassified from accumulated OCI into earnings were included in interest expense for interest rate swap agreements.
- (b) Gains (losses) recognized in earnings were included in cost of sales for commodities futures and options contracts and in interest expense for interest rate swap agreements.

All gains (losses) related to the ineffective portion of the hedging relationship were recognized in earnings. We recognized no components of gains and losses on cash flow hedging derivatives in income due to excluding such components from the hedge effectiveness assessment.

The amount of net losses on cash flow hedging derivatives, including interest rate swap agreements, foreign exchange forward contracts and options, and commodities futures and options contracts, expected to be reclassified into earnings in the next twelve months was approximately \$12.3 million after tax as of March 31, 2013. This amount was primarily associated with commodities futures and options contracts.

For more information, refer to the consolidated financial statements and notes included in our 2012 Annual Report on Form 10-K.

9. COMPREHENSIVE INCOME

A summary of the components of comprehensive income (loss) is as follows:

| | For the Three Months Ended March 31, 2013 | | |
|---|--|----------------------------------|-----------------------------|
| | Pre-Tax Amount | Tax (Expense) Benefit | After-Tax Amount |
| In thousands of dollars | | | |
| Net income | | | \$ 241,906 |
| Other comprehensive income (loss): | | | |
| Foreign currency translation adjustments | \$ 123 | — | 123 |
| Pension and post-retirement benefit plans (a) | 10,803 | (4,034) | 6,769 |
| Cash flow hedges: | | | |
| Losses on cash flow hedging derivatives | (3,094) | 1,321 | (1,773) |
| Reclassification adjustments (b) | 5,843 | (2,226) | 3,617 |
| Total other comprehensive income | \$ 13,675 | \$ (4,939) | 8,736 |
| Comprehensive income | | | \$ 250,642 |

**For the Three Months Ended
April 1, 2012**

| | Pre-Tax Amount | Tax (Expense) Benefit | After-Tax Amount |
|---|-------------------|--------------------------|---------------------|
| In thousands of dollars | | | |
| Net income | | | \$ 198,651 |
| Other comprehensive income (loss): | | | |
| Foreign currency translation adjustments | \$ 12,739 | \$ — | 12,739 |
| Pension and post-retirement benefit plans (a) | 9,730 | (3,737) | 5,993 |
| Cash flow hedges: | | | |
| Gains on cash flow hedging derivatives | 16,494 | (6,489) | 10,005 |
| Reclassification adjustments (b) | 28,024 | (10,733) | 17,291 |
| Total other comprehensive income | <u>\$ 66,987</u> | <u>\$ (20,959)</u> | <u>46,028</u> |
| Comprehensive income | | | <u>\$ 244,679</u> |

- (a) These amounts are included in the computation of net periodic benefit costs. For more information, see Note 15. Pension and Other Post-Retirement Benefit Plans.
- (b) For information on the presentation of reclassification adjustments for cash flow hedges on the Consolidated Statements of Income, see Note 8. Derivative Instruments and Hedging Activities.

The components of accumulated other comprehensive income (loss) as shown on the Consolidated Balance Sheets are as follows:

| | March 31, 2013 | December 31, 2012 |
|---|---------------------|----------------------|
| In thousands of dollars | | |
| Foreign currency translation adjustments | \$ 9,296 | \$ 9,173 |
| Pension and post-retirement benefit plans, net of tax | (359,268) | (366,037) |
| Cash flow hedges, net of tax | (26,367) | (28,212) |
| Total accumulated other comprehensive loss | <u>\$ (376,339)</u> | <u>\$ (385,076)</u> |

10. INVENTORIES

We value the majority of our inventories under the last-in, first-out (“LIFO”) method and the remaining inventories at the lower of first-in, first-out (“FIFO”) cost or market. Inventories were as follows:

| | March 31, 2013 | December 31, 2012 |
|--------------------------------|-------------------|----------------------|
| In thousands of dollars | | |
| Raw materials | \$ 250,875 | \$ 256,969 |
| Goods in process | 89,031 | 78,292 |
| Finished goods | 440,062 | 496,981 |
| Inventories at FIFO | 779,968 | 832,242 |
| Adjustment to LIFO | (153,325) | (198,980) |
| Total inventories | <u>\$ 626,643</u> | <u>\$ 633,262</u> |

The decrease in raw material inventories as of March 31, 2013 was due to lower ingredient costs in 2013 along with the seasonal timing of deliveries to support manufacturing requirements. The increase in goods in process inventories as of March 31, 2013 was principally the result of higher levels of cocoa products needed to support manufacturing requirements. Finished goods inventories were lower as of March 31, 2013 primarily due to lower seasonal inventories and lower costs in 2013. The change in the adjustment to LIFO amount from December 31, 2012 to March 31, 2013 was primarily due to lower ingredient costs in 2013.

11. SHORT-TERM DEBT

As a source of short-term financing, we utilize cash on hand and commercial paper or bank loans with an original maturity of three months or less. Our five-year unsecured revolving credit agreement contains certain financial and other covenants, customary representations, warranties and events of default. As of March 31, 2013, we complied with all covenants pertaining to the credit agreement. There were no significant compensating balance agreements that legally restricted these funds. For more information, refer to the consolidated financial statements and notes included in our 2012 Annual Report on Form 10-K.

12. FINANCIAL INSTRUMENTS

The carrying amounts of financial instruments including cash and cash equivalents, accounts receivable, accounts payable and short-term debt approximated fair value as of March 31, 2013 and December 31, 2012, because of the relatively short maturity of these instruments.

The carrying value of long-term debt, including the current portion, was \$1,792.7 million as of March 31, 2013, compared with a fair value of \$2,034.7 million, based on quoted market prices for the same or similar debt issues.

Interest Rate Swaps

In order to minimize financing costs and to manage interest rate exposure, the Company, from time to time, enters into interest rate swap agreements. In April 2012, the Company entered into forward starting interest rate swap agreements to hedge interest rate exposure related to the anticipated \$250 million of term financing expected to be executed during 2013 to repay \$250 million of 5.0% Notes maturing in April 2013. The weighted-average fixed rate on these forward starting swap agreements was 2.4%. In May 2012, the Company entered into forward starting interest rate swap agreements to hedge interest rate exposure related to the anticipated \$250 million of term financing expected to be executed during 2015 to repay \$250 million of 4.85% Notes maturing in August 2015. The weighted-average fixed rate on these forward starting swap agreements was 2.7%.

The forward starting swap agreements entered into in April 2012 matured in March 2013, resulting in a realized loss of approximately \$9.5 million. The loss on the swap agreements will be amortized as an increase to interest expense over the term of the anticipated \$250 million of term financing expected to be executed in 2013. Also in March 2013, we entered into forward starting swap agreements to continue to hedge interest rate exposure related to the term financing expected to be executed in 2013. The weighted-average fixed rate on the forward starting swap agreements is 2.1%.

The fair value of interest rate swap agreements was a net asset of \$3.3 million as of March 31, 2013. The Company's risk related to interest rate swap agreements is limited to the cost of replacing such agreements at prevailing market rates. For more information, see Note 8. Derivative Instruments and Hedging Activities.

Foreign Exchange Forward Contracts

The following table summarizes our foreign exchange activity:

| In millions of dollars | March 31, 2013 | | |
|---|-----------------|------|---------------------------------|
| | Contract Amount | | Primary Currencies |
| Foreign exchange forward contracts to purchase foreign currencies | \$ | 25.1 | Euros British pound sterling |
| Foreign exchange forward contracts to sell foreign currencies | \$ | 46.9 | Canadian dollars |

Our foreign exchange forward contracts mature in 2013 and 2014. For more information, see Note 8. Derivative Instruments and Hedging Activities.

13. FAIR VALUE ACCOUNTING

We use certain derivative instruments, from time to time, to manage interest rate, foreign currency exchange rate and commodity market price risk exposures, all of which are recorded at fair value based on quoted market prices or rates.

A summary of our cash flow hedging derivative assets and liabilities measured at fair value on a recurring basis as of March 31, 2013, is as follows:

| Description | Fair Value as of March 31, 2013 | Quoted Prices in Active Markets of Identical Assets (Level 1) | Significant Other Observable Inputs (Level 2) | Significant Unobservable Inputs (Level 3) |
|--------------------------------|------------------------------------|--|---|--|
| In thousands of dollars | | | | |
| Assets | | | | |
| Cash flow hedging derivatives | \$ 49,720 | \$ 44,825 | \$ 4,895 | \$ — |
| Liabilities | | | | |
| Cash flow hedging derivatives | \$ 43,105 | \$ 42,215 | \$ 890 | \$ — |

As of March 31, 2013, cash flow hedging derivative Level 1 assets were related to cash transfers receivable on commodities futures contracts with gains reflecting the change in quoted market prices on the last trading day for the period. As of March 31, 2013, cash flow hedging derivative Level 1 liabilities were related to cash transfers payable on commodities futures contracts with losses resulting from the change in quoted market prices on the last trading day for the period. We make or receive cash transfers to or from commodity futures brokers on a daily basis reflecting changes in the value of futures contracts on the IntercontinentalExchange or various other exchanges. These changes in value represent unrealized gains and losses.

As of March 31, 2013, cash flow hedging derivative Level 2 assets were related to the fair value of interest rate swap agreements and foreign exchange forward contracts and options with gains. Cash flow hedging Level 2 liabilities were related to the fair value of foreign exchange forward contracts and options and interest rate swap agreements with losses. The fair value of the interest rate swap agreements represents the difference in the present values of cash flows calculated at the contracted interest rates and at current market interest rates at the end of the period. We calculate the fair value of interest rate swap agreements quarterly based on the quoted market price for the same or similar financial instruments. The fair value of foreign exchange forward contracts and options is the amount of the difference between the contracted and current market foreign currency exchange rates at the end of the period. We estimate the fair value of foreign exchange forward contracts and options on a quarterly basis by obtaining market quotes of spot and forward rates for contracts with similar terms, adjusted where necessary for maturity differences. For more information, see Note 8. Derivative Instruments and Hedging Activities and refer to the consolidated financial statements and notes included in our 2012 Annual Report on Form 10-K.

A summary of our cash flow hedging derivative assets and liabilities measured at fair value on a recurring basis as of December 31, 2012, is as follows:

| Description | Fair Value as of December 31, 2012 | Quoted Prices in Active Markets of Identical Assets (Level 1) | Significant Other Observable Inputs (Level 2) | Significant Unobservable Inputs (Level 3) |
|--------------------------------|---------------------------------------|--|---|--|
| In thousands of dollars | | | | |
| Assets | | | | |
| Cash flow hedging derivatives | \$ 39,175 | \$ 37,056 | \$ 2,119 | \$ — |
| Liabilities | | | | |
| Cash flow hedging derivatives | \$ 53,407 | \$ 39,066 | \$ 14,341 | \$ — |

As of December 31, 2012, cash flow hedging derivative Level 1 assets were primarily related to cash transfers receivable on commodities futures contracts with gains reflecting the change in quoted market prices on the last trading day for the period. As of December 31, 2012, cash flow hedging derivative Level 1 liabilities were primarily related to cash transfers payable on commodities futures contracts with losses resulting from the change in quoted market prices on the last trading day for the period.

As of December 31, 2012, cash flow hedging derivative Level 2 assets were related to the fair value of foreign exchange forward contracts and options with gains. Cash flow hedging Level 2 liabilities were related to the fair value of interest rate swap agreements and foreign exchange forward contracts and options with losses.

14. INCOME TAXES

The number of years with open tax audits varies depending on the tax jurisdiction. Our major taxing jurisdictions include the United States (federal and state), Canada and Mexico. We are no longer subject to U.S. federal income tax examinations by the U.S. Internal Revenue Service (“IRS”) for years prior to 2009. During the first quarter of 2013, the IRS commenced its audits of our U.S. income tax returns for the years 2009 through 2011. Tax examinations by various state taxing authorities could generally be conducted for years beginning in 2008. We are no longer subject to Canadian federal income tax examinations by the Canada Revenue Agency (“CRA”) for years before 2006. During the third quarter of 2010, the CRA commenced its audit of our Canadian income tax returns for the years 2006 through 2009. We are no longer subject to Mexican federal income tax examinations by Servicio de Administracion Tributaria (“SAT”) for years before 2008. U.S., Canadian and Mexican federal audit issues typically involve the timing of deductions and transfer pricing adjustments. We work with the IRS, the CRA and the SAT to resolve proposed audit adjustments and to minimize the amount of adjustments. We do not anticipate that any potential tax adjustments will have a significant impact on our financial position or results of operations.

We reasonably expect reductions in the liability for unrecognized tax benefits of approximately \$6.6 million within the next 12 months because of the expiration of statutes of limitations and settlements of tax audits.

15. PENSION AND OTHER POST-RETIREMENT BENEFIT PLANS

Components of net periodic benefit cost consisted of the following:

| | Pension Benefits | | Other Benefits | |
|--------------------------------------|----------------------------|------------------|-------------------|------------------|
| | For the Three Months Ended | | | |
| | March 31, 2013 | April 1, 2012 | March 31, 2013 | April 1, 2012 |
| In thousands of dollars | | | | |
| Service cost | \$ 7,968 | \$ 7,768 | \$ 289 | \$ 281 |
| Interest cost | 11,074 | 12,604 | 2,785 | 3,424 |
| Expected return on plan assets | (18,384) | (18,230) | — | — |
| Amortization of prior service cost | 106 | 183 | 155 | 155 |
| Recognized net actuarial loss (gain) | 10,158 | 9,777 | (5) | (17) |
| Administrative expenses | 112 | 138 | 14 | 31 |
| Net periodic benefit cost | \$ 11,034 | \$ 12,240 | \$ 3,238 | \$ 3,874 |

We made contributions of \$0.4 million and \$5.7 million to the pension plans and other benefits plans, respectively, during the first quarter of 2013. In the first quarter of 2012, we made contributions of \$1.1 million and \$5.2 million to our pension and other benefits plans, respectively. The contributions in 2013 and 2012 also included benefit payments from our non-qualified pension plans and post-retirement benefit plans.

For 2013, there are no significant minimum funding requirements for our pension plans and planned voluntary funding of our pension plans in 2013 is not material.

For more information, refer to the consolidated financial statements and notes included in our 2012 Annual Report on Form 10-K.

16. SHARE REPURCHASES

Repurchases and Issuances of Common Stock

A summary of cumulative share repurchases and issuances is as follows:

| | For the Three Months Ended March 31, 2013 | |
|--|--|-------------------|
| | Shares | Dollars |
| In thousands | | |
| Shares repurchased in the open market under pre-approved share repurchase programs | — | \$ — |
| Shares repurchased to replace Treasury Stock issued for stock options and incentive compensation | 2,511 | 204,044 |
| Total share repurchases | 2,511 | 204,044 |
| Shares issued for stock options and incentive compensation | (2,332) | (93,009) |
| Net change | 179 | \$ 111,035 |

In April 2011, our Board of Directors approved a \$250 million share repurchase program. As of March 31, 2013, \$125.1 million remained available for repurchases of our Common Stock.

Item 2. Management's Discussion and Analysis of Results of Operations and Financial Condition

SUMMARY OF OPERATING RESULTS

Analysis of Selected Items from Our Income Statement

For the Three Months Ended

| | March 31, 2013 | April 1, 2012 | Percent Change Increase (Decrease) |
|---|----------------|---------------|---------------------------------------|
| In millions except per share amounts | | | |
| Net Sales | \$ 1,827.4 | \$ 1,732.1 | 5.5 % |
| Cost of Sales | 978.1 | 988.7 | (1.1) |
| Gross Profit | 849.3 | 743.4 | 14.3 |
| Gross Margin | 46.5% | 42.9% | |
| SM&A Expense | 450.7 | 405.6 | 11.1 |
| SM&A Expense as a percent of sales | 24.7% | 23.4% | |
| Business Realignment and Impairment Charges, net | 6.8 | 3.3 | 107.4 |
| EBIT | 391.8 | 334.5 | 17.1 |
| EBIT Margin | 21.4% | 19.3% | |
| Interest Expense, net | 23.6 | 24.0 | (1.6) |
| Provision for Income Taxes | 126.3 | 111.8 | 12.9 |
| Effective Income Tax Rate | 34.3% | 36.0% | |
| Net Income | \$ 241.9 | \$ 198.7 | 21.8 |
| Net Income Per Share-Diluted | \$ 1.06 | \$ 0.87 | 21.8 |

Results of Operations - First Quarter 2013 vs. First Quarter 2012

U.S. Price Increases

In March 2011, we announced a weighted-average increase in wholesale prices of approximately 9.7% across the majority of our U.S., Puerto Rico and export portfolio, effective immediately. The price increase applied to our instant consumable, multi-pack, packaged candy and grocery lines. Direct buying customers were able to purchase transitional amounts of product into May and seasonal net price realization was not expected until Easter 2012.

Usually there is a time lag between the effective date of list price increases and the impact of the price increases on net sales. The impact of price increases is often delayed because we honor previous commitments to planned consumer and customer promotions and merchandising events that occur subsequent to the effective date of the price increases. In addition, promotional allowances may be increased subsequent to the effective date, delaying or partially offsetting the impact of price increases on net sales.

Net Sales

Net sales increased 5.5% in the first quarter of 2013 over the comparable period of 2012 due primarily to sales volume increases of 5.3% and net price realization of 0.5%. Sales volume increases were primarily associated with higher sales of *Brookside* products reflecting expanded distribution in the United States, along with incremental sales from new products, also primarily in the United States. Unfavorable foreign currency exchange rates reduced net sales by 0.3%.

Key Marketplace Metrics

For the twelve-week period ending March 23, 2013, consumer takeaway increased 9.4% in 2013 compared with the same period of 2012. Excluding the impact of Easter seasonal sales, consumer takeaway increased 8.6%. Market share in measured channels increased by 1.4 share points in the twelve-week period ending March 23, 2013 compared with the same period of 2012. Consumer takeaway and the change in market share are provided for channels of distribution accounting for approximately 90% of our U.S. confectionery retail business. These channels of distribution primarily include food, drug, mass merchandisers, including Wal-Mart Stores, Inc., and convenience stores.

Cost of Sales and Gross Margin

Cost of sales decreased by approximately 1.1% in the first quarter of 2013 due to lower input costs, supply chain productivity and a favorable sales mix, which together decreased total cost of sales by approximately 6.5%. These decreases were substantially offset by higher costs associated with sales volume increases and supply chain cost inflation, resulting in a total increase to cost of sales of 7.2%. Business realignment and impairment charges of \$0.1 million were included in cost of sales in the first quarter of 2013 compared with \$19.5 million in the first quarter of 2012, resulting in a reduction in cost of sales of 2.0%.

Gross margin increased by 3.6 percentage points in the first quarter of 2013 primarily as a result of lower input costs, supply chain productivity improvements and price realization, which together improved gross margin by 4.0 percentage points. These improvements were somewhat offset by supply chain cost inflation which reduced gross margin by approximately 1.4 percentage points. The impact of lower business realignment and impairment charges recorded in the first quarter of 2013 compared with the same period of 2012 increased gross margin by 1.1 percentage points.

Selling, Marketing and Administrative

Selling, marketing and administrative expenses increased by 11.1% in the first quarter of 2013 primarily due to higher marketing and employee-related expenses, increased legal fees and incentive compensation costs. These increases were partially offset by lower costs associated with the integration of business acquisitions in the first quarter of 2013 compared with the first quarter of 2012. Advertising costs in the first quarter of 2013 increased by 21.7% from the same period in 2012.

Business Realignment and Impairment Charges

Business realignment and impairment charges of \$6.8 million associated with the Next Century program were recorded in the first quarter of 2013. These charges were primarily associated with costs for the demolition of a former manufacturing facility.

Business realignment and impairment charges of \$3.3 million were recorded in the first quarter of 2012 associated with the Next Century program. The 2012 charges were primarily associated with the relocation and start-up of production lines.

Income Before Interest and Income Taxes and EBIT Margin

EBIT increased in the first quarter of 2013 compared with the first quarter of 2012 as a result of an increase in gross profit and lower business realignment charges, partially offset by higher selling, marketing and administrative expenses. Net pre-tax business realignment and impairment charges of \$7.0 million were recorded in the first quarter of 2013. Net pre-tax business realignment and impairment charges of \$23.6 million were recorded in the first quarter of 2012.

EBIT margin increased from 19.3% for the first quarter of 2012 to 21.4% for the first quarter of 2013 due to the increase in gross margin and lower business realignment charges as a percent of sales, partially offset by higher selling, marketing and administrative expenses as a percent of sales.

Interest Expense, Net

Net interest expense was lower in the first quarter of 2013 than the comparable period of 2012 as lower interest expense associated with long-term borrowings was substantially offset by lower capitalized interest.

Income Taxes and Effective Tax Rate

Our effective income tax rate was 34.3% for the first quarter of 2013 compared with 36.0% for the first quarter of 2012. The decrease was associated with the 2013 tax law reinstatement of expiring tax benefits, non-recurring discrete items and a favorable shift of income to jurisdictions having lower tax rates.

Net Income and Net Income Per Share

Earnings per share-diluted in the first quarter of 2013 increased \$0.19, or 21.8%, compared with the first quarter of 2012. Net income was reduced by \$4.3 million, or \$0.02 per share-diluted, in the first quarter of 2013, and was reduced by \$14.9 million, or \$0.07 per share-diluted, in the first quarter of 2012 as a result of business realignment and impairment charges. Net income was reduced by \$0.5 million, in the first quarter of 2013 and was reduced by \$3.8 million, or \$0.01 per share-diluted, in the first quarter of 2012 due to integration costs for business acquisitions. Net income was reduced by \$1.8 million, or \$0.01 per share-diluted, in the first quarter of 2013, and was reduced by \$2.6 million, or \$0.01 per share-diluted, in the first quarter of 2012 by non-service related pension expenses. Excluding the impact of business realignment and impairment charges, business acquisition costs and non-service related pension expenses, earnings per share-diluted increased \$0.13 per share, or 13.5%, in 2013 compared with 2012.

Liquidity and Capital Resources

Historically, our major source of financing has been cash generated from operations. Domestic seasonal working capital needs, which typically peak during the summer months, generally have been met by utilizing cash on hand and issuing commercial paper. Commercial paper also may be issued, from time to time, to finance ongoing business transactions, such as the repayment of long-term debt, business acquisitions and for other general corporate purposes. During the first three months of 2013, cash and cash equivalents increased by \$1.8 million to \$730.1 million.

Net cash provided from operating activities was \$293.2 million in 2013 and \$275.8 million in 2012. The increase was primarily the result of the change in cash provided from (used by) working capital and higher net income in 2013. These increases were substantially offset by a decrease in cash provided by other assets and liabilities, an increase in cash used by excess tax benefits from stock-based compensation, and reduced cash provided from non-cash business realignment charges and depreciation and amortization. Cash provided from changes in other assets and liabilities was \$96.0 million for the first three months of 2013 compared with \$149.2 million for the same period of 2012. The decrease in the amount of cash provided from other assets and liabilities from 2012 to 2013 primarily reflected the effect of hedging transactions of \$68.7 million. Cash used by working capital was \$63.9 million in 2013 compared with \$129.7 million in 2012. The decrease in cash used by working capital was principally associated with changes in cash used by trade accounts receivable and inventories in 2013 compared with 2012.

During the first three months of 2012, the Company acquired Brookside for approximately \$172.9 million. Also during the first three months of 2012, the \$9.0 million loan to affiliate was associated with financing the expansion of capacity under our manufacturing agreement in China with Lotte Confectionery Company LTD.

Interest paid was \$29.2 million during the first three months of 2013 versus \$31.4 million for the comparable period of 2012. The decrease in interest paid in 2013 was due to the lower outstanding debt balance in 2013. Income taxes paid were \$0.1 million during the first three months of 2013 versus \$7.6 million for the comparable period of 2012. The decrease in taxes paid in 2013 was primarily related to the receipt of a tax refund resulting from a loss on the sale of a former manufacturing facility in Canada.

The ratio of current assets to current liabilities was 1.5:1.0 as of March 31, 2013 and 1.4:1.0 as of December 31, 2012. The capitalization ratio (total short-term and long-term debt as a percent of stockholders' equity, short-term and long-term debt) decreased to 63% as of March 31, 2013 from 65% as of December 31, 2012.

Generally, our short-term borrowings are in the form of commercial paper or bank loans with an original maturity of three months or less. As of March 31, 2013, we had no commercial paper borrowings.

Outlook

The outlook section contains a number of forward-looking statements, all of which are based on current expectations. Actual results may differ materially. Refer to the Safe Harbor Statement below as well as Risk Factors and other information contained in our 2012 Annual Report on Form 10-K for information concerning the key risks to achieving future performance goals.

Our results for the first three months of 2013 were strong and we expect to continue our marketplace momentum. The overall macroeconomic environment appears to be improving, but it is difficult to predict consumer sentiment and purchasing patterns. We will continue to remain focused on building brands in both the U.S. and key international markets and will make incremental investments in our brands and business capabilities.

We continue to expect 2013 net sales growth of 5% to 7%, including the impact of foreign currency exchange rates. Net sales will be driven primarily by core brand volume growth, the U.S. launch of the *Brookside* product line in the food, drug and mass channels, as well as the introduction of new products such as *Kit Kat* minis, *Twizzlers Bites* and *Jolly Rancher Bites*. In key international markets such as China, we will extend our portfolio of products with the introduction of *Hershey's Kisses Deluxe* and build our sales of *Hershey's* chocolate products in instant consumable and take home pack types, which were introduced in the fourth quarter of 2012. In Brazil, manufacturing capacity was increased to support geographic expansion of *Hershey's Mais*, a chocolate-covered wafer product.

We have good visibility into our cost structure and we expect gross margin to increase in 2013, driven by productivity, cost savings initiatives and lower costs for certain major raw materials. Therefore, we now expect 2013 gross margin on a reported basis to increase 260 to 280 basis points and we now expect expansion of adjusted gross margin to be 190 to 210 basis points.

Considering this financial flexibility, we expect to accelerate our investments in 2013 for advertising, go-to-market capabilities and expansion of our Insights Driven Performance initiatives. Advertising is expected to increase approximately 20% versus last year. Advertising spending on core U.S. brands is expected to increase by approximately the same percentage as in 2012. Incremental advertising in 2013 will support the expanded distribution of *Brookside* products and innovation in both the U.S. and international markets, including increased advertising for the *Hershey's* brand in China.

We expect to continue investments in 2013 to build on the go-to-market capabilities established over the last few years, as well as the consumer insights work underway in key international markets for our five global brands, *Hershey's*, *Reese's*, *Hershey's Kisses*, *Jolly Rancher* and *Ice Breakers*, that we believe can gain strong consumer acceptance around the world. Additionally, we will continue to invest in international selling and marketing functions and support new product introductions with increased levels of consumer promotion and sampling to drive trial and repeat purchases. As a result, we anticipate that earnings per share-diluted in accordance with GAAP will increase 22% to 24% in 2013 compared with 2012. Growth in adjusted earnings per share-diluted is now expected to be about 12%, as reflected in the reconciliation of reported to adjusted earnings per share-diluted projections provided below.

NOTE: In the Outlook above, the Company has provided income measures excluding certain items, in addition to net income determined in accordance with GAAP. These non-GAAP financial measures are used in evaluating results of operations for internal purposes. These non-GAAP measures are not intended to replace the presentation of financial results in accordance with GAAP. Rather, the Company believes exclusion of such items provides additional information to investors to facilitate the comparison of past and present operations.

In 2012, the Company recorded pre-tax acquisition closing and integration costs of \$13.4 million, or \$0.04 per share-diluted, related to the Brookside acquisition. In 2012, the Company recorded charges of \$76.3 million, or \$0.22 per share-diluted, attributable to the Next Century program and \$7.5 million, or \$0.03 per share-diluted, of non-cash impairment charges associated with the discontinuation of the Tri-US, Inc. nutritional beverages business. Non-service related pension expense of \$20.6 million, or \$0.06 per share-diluted, was recorded in 2012.

In 2013, the Company expects to record charges of about \$10 million to \$15 million, or \$0.03 to \$0.05 per share-diluted, attributable to the Next Century program. Non-service related pension expenses are expected to be \$13.2 million, or \$0.04 per share-diluted, in 2013.

Below is a reconciliation of 2012 and projected 2013 earnings per share-diluted in accordance with GAAP to non-GAAP 2012 adjusted earnings per share-diluted and projected adjusted earnings per share-diluted for 2013:

| | 2012 | 2013 (Projected) |
|---|----------------|------------------------|
| Reported EPS-Diluted | \$ 2.89 | \$3.52 - \$3.58 |
| Acquisition closing and integration charges | 0.04 | — |
| Total Business Realignment and Impairment Charges | 0.25 | 0.03 - 0.05 |
| Non-service related pension expenses | 0.06 | 0.04 |
| Adjusted EPS-Diluted | <u>\$ 3.24</u> | <u>\$3.61 - \$3.65</u> |

Safe Harbor Statement

We are subject to changing economic, competitive, regulatory and technological risks and uncertainties because of the nature of our operations. In connection with the “safe harbor” provisions of the Private Securities Litigation Reform Act of 1995, we note the following factors that, among others, could cause future results to differ materially from the forward-looking statements, expectations and assumptions that we have discussed directly or implied in this report. Many of the forward-looking statements contained in this report may be identified by the use of words such as “intend,” “believe,” “expect,” “anticipate,” “should,” “planned,” “projected,” “estimated,” and “potential,” among others.

The factors that could cause our actual results to differ materially from the results projected in our forward-looking statements include, but are not limited to the following:

- Issues or concerns related to the quality and safety of our products, ingredients or packaging could cause a product recall and/or result in harm to the Company's reputation, negatively impacting our operating results;
- Increases in raw material and energy costs, along with the availability of adequate supplies of raw materials could affect future financial results;
- Price increases may not be sufficient to offset cost increases and maintain profitability, or may result in sales volume declines associated with pricing elasticity;
- Market demand for new and existing products could decline;
- Increased marketplace competition could hurt our business;
- Disruption to our supply chain could impair our ability to produce or deliver our finished products, resulting in a negative impact on our operating results;
- Our financial results may be adversely impacted by the failure to successfully execute or integrate acquisitions, divestitures and joint ventures;
- Changes in governmental laws and regulations could increase our costs and liabilities or impact demand for our products;
- Political, economic, and/or financial market conditions could negatively impact our financial results;
- International operations could fluctuate unexpectedly and adversely impact our business;
- Disruptions, failures or security breaches of our information technology infrastructure could have a negative impact on our operations;

- Future developments related to the investigation by government regulators of alleged pricing practices by members of the confectionery industry and civil antitrust lawsuits in the United States could negatively impact our reputation and our operating results;
- Pension costs or funding requirements could increase at a higher than anticipated rate; and
- Such other matters as discussed in our Annual Report on Form 10-K for 2012.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

The potential net loss in fair value of interest rate swap agreements of ten percent resulting from a hypothetical near-term adverse change in market rates was \$11.4 million as of March 31, 2013 and was \$11.0 million as of December 31, 2012. The potential net loss in fair value of foreign exchange forward contracts and options resulting from a hypothetical near-term adverse change in market rates of ten percent was \$7.8 million as of March 31, 2013 and was \$7.9 million as of December 31, 2012. The market risk resulting from a hypothetical adverse market price movement of ten percent associated with the estimated average fair value of net commodity positions increased from \$4.4 million as of December 31, 2012, to \$6.1 million as of March 31, 2013. Market risk represents ten percent of the estimated average fair value of net commodity positions at four dates prior to the end of each period.

PART II - OTHER INFORMATION

Items 1, 1A, 3, 4 and 5 have been omitted as not applicable.

Item 2 - Unregistered Sales of Equity Securities and Use of Proceeds

Issuer Purchases of Equity Securities

| Period | (a) Total Number of Shares Purchased | (b) Average Price Paid per Share | (c) Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs | (d) Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs |
|--------------------------------------|--------------------------------------|----------------------------------|--|--|
| (in thousands of dollars) | | | | |
| January 1 through January 27, 2013 | — | — | — | \$ 125,069 |
| January 28 through February 24, 2013 | 1,085,966 | \$ 80.74 | — | \$ 125,069 |
| February 25 through March 31, 2013 | 1,424,700 | \$ 81.68 | — | \$ 125,069 |
| Total | 2,510,666 | \$ 81.27 | — | |

In April 2011, our Board of Directors approved a new \$250 million share repurchase program. As of March 31, 2013, \$125.1 million remained available for repurchases of our Common Stock.

Item 6 - Exhibits

The following items are attached or incorporated herein by reference:

| Exhibit Number | Description |
|----------------|---|
| 10.1 | Employee Confidentiality and Restrictive Covenant Agreement, amended as of February 18, 2013, is attached hereto and filed as Exhibit 10.1. |
| 12.1 | Statement showing computation of ratio of earnings to fixed charges for the three months ended March 31, 2013 and April 1, 2012. |
| 31.1 | Certification of John P. Bilbrey, Chief Executive Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. |
| 31.2 | Certification of Humberto P. Alfonso, Chief Financial Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. |
| 32.1 | Certification of John P. Bilbrey, Chief Executive Officer, and Humberto P. Alfonso, Chief Financial Officer, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. |
| 101.INS | XBRL Instance Document |
| 101.SCH | XBRL Taxonomy Extension Schema |
| 101.CAL | XBRL Taxonomy Extension Calculation Linkbase |
| 101.LAB | XBRL Taxonomy Extension Label Linkbase |
| 101.PRE | XBRL Taxonomy Extension Presentation Linkbase |
| 101.DEF | XBRL Taxonomy Extension Definition Linkbase |

SIGNATURES

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

THE HERSHEY COMPANY
(Registrant)

Date: May 8, 2013 /s/Humberto P. Alfonso
Humberto P. Alfonso
Chief Financial Officer

Date: May 8, 2013 /s/Richard M. McConville
Richard M. McConville
Chief Accounting Officer

EXHIBIT INDEX

| | |
|-----------------|--|
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| Exhibit 101.DEF | XBRL Taxonomy Extension Definition Linkbase |

EMPLOYEE CONFIDENTIALITY AND RESTRICTIVE COVENANT AGREEMENT

THIS EMPLOYEE CONFIDENTIALITY AND RESTRICTIVE COVENANT AGREEMENT (the "Agreement") is entered into as of _____, 20__ (the "Effective Date"), between The Hershey Company, a Delaware corporation together with its subsidiaries and affiliates and its and their respective successors and assigns ("Employer" or "Company"), and the undersigned employee of Employer ("Employee").

WHEREAS, Employee currently serves or is being hired or promoted to serve the Company and has received and/or is eligible to receive current and future Options, RSU and/or PSU (as defined below) awards under the Long Term Incentive Program of the Company's Equity and Incentive Compensation Plan or any similar or successor plan (the "EICP") and/or is currently a participant in, or may become a participant in, the DB SERP and/or DC SERP (as defined below).

WHEREAS, Employer possesses certain valuable confidential, proprietary and/or trade secret information (collectively, "Confidential Information," as further defined below) that gives Employer a competitive advantage.

WHEREAS, Employer has developed and maintained, at substantial expense and over a considerable period of time, relationships with customers, suppliers, agents, licensees, licensors and others that likewise give Employer a competitive advantage ("Business Relationships").

WHEREAS, as a result of Employee's past, future, and/or continued employment, Employee has been and/or will be and/or will continue to be given access to, and has and/or will continue to assist in, the development and maintenance of Employer's Confidential Information and Business Relationships, it is the parties' intent to continue to safeguard such Confidential Information and Business Relationships both during and after the term of Employee's employment with Employer.

WHEREAS, Employer's reputation and present and future competitive position are dependent upon Employer's ability to protect its interests in such Confidential Information and Business Relationships.

WHEREAS, should Employee's employment with Employer be terminated for any reason whatsoever, Employer desires: (1) to protect its Confidential Information; (2) to prevent the Employee from using or disclosing to others such Confidential Information; and (3) to limit Employee's ability to solicit other employees, customers, suppliers, agents, licensees or licensors of Employer.

NOW, THEREFORE, in consideration of (i) Employer employing Employee, (ii) Employer providing and continuing to provide Employee access to such Confidential Information and Business Relationships, (iii) Employer making Option awards, PSU awards, RSU awards and/or other equity awards to Employee under the next cycle and/or any future cycles in which Employee is eligible to participate, (iv) if applicable, Employer permitting Employee to participate in and be eligible to receive amounts in the future under defined benefit or defined contribution supplemental Employee retirement plans (DB SERP or DC SERP, as applicable), and/or (v) other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Employer and Employee agree as follows:

1. Definitions.

(a) "Options", "RSU" and "PSU" shall mean Options, RSU/RS Awards and PSU/PS Awards, respectively, granted under the EICP.

(b) "DB SERP" means The Hershey Company Amended and Restated (2007) Supplemental Executive Retirement Plan, as amended by the Company from time to time.

(c) "DC SERP" means The Hershey Company Defined Contribution Executive Retirement Plan, as amended by the Company from time to time.

2. Non-Disclosure of Confidential Information. Employee acknowledges that due to the nature of his/her employment and the position of trust that he/she holds or will hold with Employer, he/she will have special access to, learn, be provided with, and in some cases will prepare and create for Employer, trade secrets and other confidential and proprietary information relating to Employer's business, including, but not limited to, information about Employer's manufacturing processes; manuals, recipes and ingredient percentages; engineering drawings; product and process research and development; new product information; cost information; supplier data; strategic business information; information related to Employer's legal strategies or legal advice rendered to Employer; marketing, financial and business development information, plans, forecasts, reports and budgets; customer information; new product strategies, plans and project activities; and acquisition and divestiture strategies, plans and project activities (collectively, "Confidential Information"). Employee acknowledges and agrees that Confidential Information, whether or not in written form, is the exclusive property of Employer, that it has been and will continue to be of critical importance to the business of Employer, and that the disclosure of it to, or use of it by, competitors and others will cause Employer substantial and irreparable harm. Accordingly, Employee will not, either during his/her employment or at any time after the termination (whether voluntary or involuntary, and regardless of reason) of such employment with Employer, use or disclose any Confidential Information relating to the business of Employer which is not generally available to the public. Notwithstanding the foregoing provisions of this Paragraph 2, Employee may disclose or use any such information (i) when such disclosure or use may be required or appropriate in the good faith judgment of Employee in the course of performing his/her duties to Employer and in accordance with Employer policies and procedures, (ii) when required by a court of law, by any governmental agency having supervisory authority over Employee or the business of Employer, or by any administrative or legislative body (including a committee thereof) with apparent jurisdiction, or (iii) with the prior written consent of Employer's Chief Executive Officer ("CEO") or Board of Directors ("Board") (provided that, if Employee is CEO, such consent must be by the Board). Notwithstanding anything herein to the contrary, Employee understands and agrees that his/her obligations under this Agreement shall be in addition to, rather than in lieu of, any obligations Employee may have under any applicable statute or at common law.

3. Non-Competition. Employee acknowledges that Employer is engaged, domestically and worldwide, in the business of developing, producing, marketing, selling and distributing chocolate, confectionery, confectionery-related snack and chocolate-related products (“Employer’s Business”). Employee acknowledges that due to the nature of his/her employment with Employer, he/she has and will have special access to, contact with, and Confidential Information about, Employer’s Business and Business Relationships. Employee acknowledges that Employer has incurred considerable expense and invested considerable time and resources in developing its Confidential Information and Business Relationships, and that such Confidential Information and Business Relationships are critical to the success of Employer’s Business. Accordingly, both (i) during the term of his/her employment with Employer, and (ii) for a period of twelve (12) months following the termination of his/her employment (whether voluntary or involuntary, and regardless of reason), Employee, except in the performance of his/her duties to Employer, shall not, in any geographic area where Employer conducts business or where Employer’s products are sold, without the prior written consent of Employer’s Chief Human Resources Officer, CEO or the Chair of the Compensation and Executive Organization Committee of Employer’s Board of Directors (provided that, if Employee is CEO, such consent must be by the Board of Directors), directly or indirectly serve or act in a consulting, Employee or managerial capacity, or engage in oversight of any person who serves or acts in a consulting, Employee or managerial capacity, as an officer, director, employee, consultant, advisor, independent contractor, agent or representative, for the domestic or worldwide chocolate, confectionery, confectionery-related snack or chocolate-related businesses of any person or entity that is in competition with any of the aspects of Employer’s Business. For purposes of clarification, Employee will not be deemed to be involved in a business in competition with Employer’s Business, and accordingly this paragraph 2 will not be violated, by the Employee (A) providing services to a subsidiary, division or unit of an entity (a “parent company”) that engages, directly or indirectly, in any competitive business described above, so long as Employee and the subsidiary, division or unit to which he/she is providing services do not engage in any such competitive business, or (B) serving in a consulting, Employee or managerial capacity of a parent company that engages, directly or indirectly, in any competitive business described above, so long as the gross revenues from such competitive businesses constituted less than 10% of consolidated annual gross revenues for the parent company’s most recently completed fiscal year.

4. Non-Solicitation; Non-Disparagement. Both (i) during the term of his/her employment by Employer, and (ii) for a period of twelve (12) months following the termination of his/her employment (whether voluntary or involuntary, and regardless of reason), Employee, except in the performance of his/her duties to Employer, shall not directly or indirectly (including as an officer, director, employee, consultant, advisor, agent or representative), for himself/herself or on behalf of any other person or entity:

(a) for any purpose that is in competition with any of the aspects of Employer’s Business, solicit, take away or engage, or participate in soliciting, taking away or engaging, any customers, suppliers, agents, licensees or licensors of Employer with whom Employee had contact while employed by Employer, or about whom Employer had access to confidential information as a result of Employee’s employment by Employer; or

(b) knowingly recruit or solicit, or participate in recruiting or soliciting, any of Employer's employees, or communicate, except in the case of a reference described in the last sentence of this paragraph, with any other person or entity about the nature, quality or quantity of work, or any special knowledge or personal characteristics, of any person employed by Employer. If Employee should wish to discuss possible employment with any then-current employee of Employer during the period set forth above, Employee may request written permission to do so from the most senior human resources officer of Employer who may, in his/her discretion, grant a written exception to the no solicitation covenant set forth immediately above; provided, however, Employee shall not discuss any such employment possibility with any such employee prior to such permission. Notwithstanding the foregoing, the provisions of this paragraph shall not be violated by (i) general advertising or solicitation not specifically targeted at employees of Employer, (ii) Employee serving as a reference, upon request, for any employee of Employer, or (iii) actions taken by any person or entity with which Employee is associated if Employee is not personally involved in any manner in the matter and has not identified such employee for recruiting or solicitation.

In addition, both (i) during the term of his/her employment by Employer, and (ii) following the termination of his/her employment (whether voluntary or involuntary, and regardless of reason), Employee shall not make any public statements that disparage Employer, its employees, officers, directors, products or services, provided that, notwithstanding the foregoing, truthful statements made in the course of sworn testimony in administrative, judicial or arbitral proceedings (including, without limitation, depositions in connection with such proceedings), normal competitive-type statements, and statements made in the good faith performance of the Employee's duties to Employer shall not constitute a violation of this clause.

5. Return of Materials. Upon termination of Employee's employment for whatever reason, including involuntary termination, Employee shall return to Employer any and all materials relating to or containing Confidential Information or information about Business Relationships that Employee obtained through Employee's employment with Employer.

6. Violation of Paragraphs 2, 3, 4 or 5. Employee acknowledges Employer's valid and protectable interest in aligning the long-term interests of valued employees with those of Employer by providing Employee an ownership interest in the Employer through the PSU program and other equity incentive programs and otherwise, and likewise acknowledges Employer's valid and protectable interest in preventing former employees whose interests become adverse to the Employer from maintaining an ownership or other interest in the Employer. Accordingly, Employee agrees that if he/she violates any of paragraphs 2, 3, 4 or 5 above (the date on which any such violation occurs is the "Date of Breach"), such violation could cause immediate harm to Employer and that Employer may, in its sole discretion, in addition to any other remedies available to it at law (including without limitation monetary damages) or in equity (including without limitation temporary, preliminary and/or permanent injunctive relief):

- (a) cancel any unvested portion of any and all PSU and RSU awards;
- (b) cancel any unexercised stock options;

(c) require Employee to pay Employer the full value of any benefits received by Employee during the period twelve (12) months prior to Employee's last date of employment through the Date of Breach, from (i) PSUs, (ii) RSUs, and (iii) the exercise of any options;

(d) cancel any unpaid benefits of Employee under the DB SERP and DC SERP; and/or

(e) require Employee to pay Employer the full value of any benefits already received by Employee under the DB SERP or DC SERP (including for this purpose amounts that would have been received but for Employee's election to defer such amounts under the Deferred Compensation Plan).

Moreover, if Employer seeks temporary, preliminary and/or permanent injunctive relief for a violation or threatened violation of paragraphs 2, 3, 4 or 5 above, Employee hereby expressly consents to the entry of such relief against him/her by a court of competent jurisdiction. Employee further agrees that in the event he/she later believes that any provision hereof is not enforceable for any reason, Employee will not act in violation of any such provision until such time as a court of competent jurisdiction enters a final judgment with respect to enforceability.

7. Entire Agreement. Employee acknowledges and agrees that (a) this Agreement includes the entire agreement and understanding between the parties with respect to the subject matter hereof, and may be amended, modified or changed only by a written instrument executed by Employee and Employer, and (b) violation of paragraphs 2, 3, 4 or 5 hereof may cause Employee to lose the right to receive, or may obligate Employee to repay to Employer, amounts awarded or accrued under various plans and programs of Employer as described herein and that, to the extent any effect of this Agreement upon such amounts may be inconsistent with the terms and conditions of such plans or programs as in effect on the date hereof (including without limitation as set forth in the Long Term Incentive Program Participation Agreement to which Employee may be a party), this Agreement shall constitute an amendment of such terms and conditions and Employee's consent thereto. No provision of this Agreement may be waived except by a writing executed and delivered by the party sought to be charged. Any such written waiver will be effective only with respect to the event or circumstance described therein and not with respect to any other event or circumstance, unless such waiver expressly provides to the contrary.

8. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without reference to principles of conflict of laws.

(b) All notices and other communications hereunder shall be in writing; shall be delivered by hand delivery to the other party or mailed by registered or certified mail, return receipt requested, postage prepaid or by a nationally recognized courier service such as Federal Express; shall be deemed delivered upon actual receipt; and shall be addressed as follows:

If to Employer:

The Hershey Company
100 Crystal A Drive
Hershey, Pennsylvania 17033
ATTN: Senior Vice President, Chief Human Resources Officer

If to Employee:

At the address set forth with the signature below,

or to such other address as either party shall have furnished to the other in writing in accordance herewith.

(c) Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction will not invalidate or render unenforceable such provision in any other jurisdiction.

(d) Employee agrees that while employed and during the 12 months following termination of employment for any reason, Employee will notify any future employers of Employee's obligations under this Agreement and authorizes Employer to provide notice of the provisions of this Agreement to any future employers of Employee.

(e) Employee represents that Employee is free to enter into this Agreement and is not currently bound by any post-employment restrictive covenants of any former employer that would restrict or prohibit Employee from performing Employee's duties for Employer. Employee further represents that Employee's employment with Employer will not, to the best of Employee's knowledge, require Employee to inevitably disclose any confidential information of any prior employer and that Employee will not disclose to Employer confidential information of a prior employer in violation of the terms of any binding non-disclosure obligation or applicable law.

(f) Employee acknowledges and agrees that the restrictions set forth in Paragraphs 2, 3, 4 and 5 of this Agreement are reasonable and necessary for the protection of the Employer's Confidential Information and Business Relationships, and do not impose any undue economic hardship on Employee or otherwise preclude Employee from obtaining gainful employment should Employee cease to be employed by the Employer.

(g) Employee understands and agrees that nothing in this Agreement shall be construed in any way as an agreement or guarantee of employment. Employee also understands and agrees that while he or she is eligible to receive awards under the EICP and/or amounts under the DB SERP and/or DC SERP, the granting of any such awards and/or receipt of amounts under such awards or plans is subject to the terms and conditions of the awards, EICP and such plans, and that nothing set forth herein shall be deemed to guarantee to Employee any specific amount of awards or compensation will be made to or earned by Employee.

EMPLOYEE HAS READ AND REVIEWED THIS AGREEMENT IN ITS ENTIRETY AND HAS BEEN GIVEN AN OPPORTUNITY TO ASK QUESTIONS ABOUT IT AND TO CONSULT WITH AN ATTORNEY. EMPLOYEE FULLY UNDERSTANDS THE TERMS OF THIS AGREEMENT AND KNOWINGLY AND FREELY AGREES TO ABIDE BY THEM.

IN WITNESS WHEREOF, each of the parties hereto has duly executed this Agreement as of the date first set forth above.

EMPLOYEE:

Print Name and Address:

Sample Person
Street Address
City, State / Province, Country

EMPLOYER:

The Hershey Company, a Delaware corporation

By:

Senior Vice President,
Chief Human Resources Officer

THE HERSHEY COMPANY
COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES
(in thousands of dollars except for ratios)
(Unaudited)

| | For the Three Months Ended | |
|--|-----------------------------------|--------------------------|
| | March 31, 2013 | April 1, 2012 |
| Earnings: | | |
| Income before income taxes | \$ 368,184 | \$ 310,506 |
| Add (deduct): | | |
| Interest on indebtedness | 24,341 | 24,670 |
| Portion of rents representative of the interest factor (a) | 2,079 | 1,828 |
| Amortization of debt expense | 298 | 324 |
| Amortization of capitalized interest | 511 | 405 |
| Adjustment to exclude noncontrolling interests in subsidiaries and income from equity investee | (834) | (4,110) |
| Earnings as adjusted | <u>\$ 394,579</u> | <u>\$ 333,623</u> |
| Fixed Charges: | | |
| Interest on indebtedness | \$ 24,341 | \$ 24,670 |
| Portion of rents representative of the interest factor (a) | 2,079 | 1,828 |
| Amortization of debt expense | 298 | 324 |
| Capitalized interest | 317 | 2,275 |
| Total fixed charges | <u>\$ 27,035</u> | <u>\$ 29,097</u> |
| Ratio of earnings to fixed charges | <u>14.60</u> | <u>11.47</u> |

NOTE:

(a) Portion of rents representative of the interest factor consists of one-third of rental expense for operating leases.

CERTIFICATION

I, John P. Bilbrey, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of The Hershey Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 8, 2013 /s/John P. Bilbrey

John P. Bilbrey
Chief Executive Officer

CERTIFICATION

I, Humberto P. Alfonso, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of The Hershey Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 8, 2013 /s/Humberto P. Alfonso

Humberto P. Alfonso
Chief Financial Officer

CERTIFICATION

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officers of The Hershey Company (the "Company") hereby certify that the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2013 (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 8, 2013 /s/John P. Bilbrey

John P. Bilbrey

Chief Executive Officer

Date: May 8, 2013 /s/Humberto P. Alfonso

Humberto P. Alfonso

Chief Financial Officer

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.