

CONAGRA BRANDS INC.
Form S-4/A
September 13, 2018
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As filed with the Securities and Exchange Commission on September 13, 2018

Registration No. 333-226329

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

AMENDMENT NO. 2
TO
FORM S-4
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

CONAGRA BRANDS, INC.
(Exact Name of Registrant as Specified in Its Charter)

Delaware (State or Other Jurisdiction of Incorporation or Organization)	2000 (Primary Standard Industrial Classification Code Number)	47-0248710 (I.R.S. Employer Identification Number)
--------------------------------------------------------------------------------------	----------------------------------------------------------------------------	-----------------------------------------------------------------

222 Merchandise Mart Plaza, Suite 1300

Chicago, Illinois 60654

(312) 549-5000

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Colleen R. Batcheler

Executive Vice President, General Counsel and Corporate Secretary

Conagra Brands, Inc.

222 Merchandise Mart Plaza, Suite 1300

Chicago, Illinois 60654

(312) 549-5000

(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent For Service)

Copies to:

Peter E. Izanec, Esq.	M. Kelley Maggs, Esq.	Robert I. Townsend, III, Esq.
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Michael J. Solecki, Esq.	Secretary and General Counsel	Cravath, Swaine & Moore LLP
Bradley C. Brassler, Esq.	Pinnacle Foods Inc.	825 Eighth Avenue
Jones Day	399 Jefferson Road	New York, New York 10019
901 Lakeside Avenue	Parsippany, New Jersey 07054	(212) 474-1000

Cleveland, Ohio 44114

(973) 541-6620

(216) 586-3939

Approximate date of commencement of proposed sale of the securities to the public: As soon as practicable after this Registration Statement is declared effective and upon the satisfaction or waiver of all other conditions to the closing of the merger described herein.

If the securities being registered on this form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of large accelerated filer, accelerated filer, smaller reporting company, and emerging growth company in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

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

Smaller reporting company

Emerging growth company

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

If applicable, place an X in the box to designate the appropriate rule provision relied upon in conducting this transaction:

Exchange Act Rule 13e-4(i) (Cross-Border Issuer Tender Offer)

Exchange Act Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

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The information in this proxy statement/prospectus is not complete and may be changed. Conagra may not sell the securities offered by this proxy statement/prospectus until the registration statement filed with the Securities and Exchange Commission, of which the proxy statement/prospectus is a part, is declared effective. This proxy statement/prospectus is not an offer to sell and is not soliciting an offer to buy any securities in any jurisdiction where the offer or sale is not permitted.

PRELIMINARY SUBJECT TO COMPLETION, DATED SEPTEMBER 13, 2018

Pinnacle Foods Inc.

399 Jefferson Road

Parsippany, New Jersey 07054

MERGER PROPOSED YOUR VOTE IS VERY IMPORTANT

[], 2018

Dear Fellow Stockholders:

On June 26, 2018, Pinnacle Foods Inc., a Delaware corporation (Pinnacle), entered into an Agreement and Plan of Merger (as it may be amended from time to time, the merger agreement), with Conagra Brands, Inc., a Delaware corporation (Conagra), and Patriot Merger Sub Inc., a Delaware corporation and a direct wholly owned subsidiary of Conagra (Merger Sub).

The merger agreement provides for Merger Sub to be merged with and into Pinnacle (the merger), after which Pinnacle will survive the merger as a wholly owned subsidiary of Conagra. If the merger is completed, for each share of Pinnacle common stock you own, you will receive (unless you seek appraisal and comply with all related statutory requirements of the General Corporation Law of the State of Delaware (the DGCL)) \$43.11 in cash without interest (the cash consideration), and 0.6494 shares of Conagra common stock (the stock consideration), and together with the cash consideration, the merger consideration). Based on the volume weighted average price per share of Conagra common stock for the five consecutive trading days ending June 21, 2018 on the New York Stock Exchange (NYSE), the merger consideration represented approximately \$68.00 per share of Pinnacle common stock. This price represented a premium of approximately 23.2% to the closing price of Pinnacle common stock of \$55.20 on NYSE on April 19, 2018 (which was the last trading day prior to the announcement that Jana Partners LLC had made a substantial investment in Pinnacle, leading to speculation that Pinnacle would consider a potential sale transaction) and a premium of approximately 0.2% to the closing price of Pinnacle common stock of \$67.86 on NYSE on June 26, 2018, the last trading day before the public announcement of the merger agreement. Based on the closing price of \$[] per share of Conagra common stock on NYSE on [], 2018, the last practicable date before the date of this proxy statement/prospectus, the merger consideration represented approximately \$[] per share of Pinnacle common stock. Changes in the market price of shares of Conagra common stock prior to the closing of the merger will affect the value of the stock consideration. Accordingly, we urge you to obtain current market quotations for shares of Conagra common stock before deciding whether to vote **FOR** adoption of the merger agreement. Shares

of Pinnacle common stock are currently traded on NYSE under the symbol PF , and shares of Conagra common stock are currently traded on NYSE under the symbol CAG .

In connection with the merger, Pinnacle will hold a special meeting of its stockholders (the special meeting) to adopt the merger agreement and to consider and vote on certain other matters. The affirmative vote of the holders of a majority of all outstanding shares of Pinnacle common stock entitled to vote on the merger proposal is required to adopt the merger agreement. Stockholders of record as of September 4, 2018 (the record date) are entitled to vote to adopt the merger agreement and for the other proposals presented at the special meeting.

YOUR VOTE IS VERY IMPORTANT

Information about the special meeting, the merger and the other business to be considered by the Pinnacle stockholders at the special meeting is contained in the accompanying proxy statement/prospectus, which we urge you to read in its entirety. In particular, see the section titled Risk Factors beginning on page 40 of the accompanying proxy statement/prospectus.

The Pinnacle board of directors (the Pinnacle board) has unanimously approved the merger agreement and declared in the best interest of the Pinnacle stockholders the acquisition of Pinnacle by Conagra by means of the merger and directed that the merger agreement be submitted to the Pinnacle stockholders for their adoption. The Pinnacle board recommends that the Pinnacle stockholders vote (1) FOR the proposal to adopt the merger agreement; (2) FOR the proposal to approve, on a nonbinding, advisory basis, the compensation that may be paid or may become payable to Pinnacle s named executive officers in connection with, or following, the closing of the merger (the merger-related compensation); and (3) FOR any adjournment of the special meeting, if necessary or appropriate, to solicit additional proxies in favor of the proposal to adopt the merger agreement.

If you have any questions concerning the merger, the special meeting or the accompanying proxy statement/prospectus, would like additional copies of the accompanying proxy statement/prospectus or need help voting your shares of Pinnacle common stock, please contact Pinnacle s proxy solicitor:

1407 Broadway, 27th Floor

New York, NY 10018

pfproxy@mackenziepartners.com

(212) 929-5500 or toll-free (800) 322-2885

Sincerely,

Roger K. Deromedi

Independent Chairman of the Board of Directors and Lead Director

Neither the U.S. Securities and Exchange Commission nor any state securities commission has approved or disapproved of the merger, the transactions contemplated by the merger agreement or the securities to be issued under the accompanying proxy statement/prospectus or determined if the accompanying proxy statement/prospectus is accurate or complete. Any representation to the contrary is a criminal offense.

Whether or not you plan to attend the special meeting, it is important that you submit your proxy with voting instructions as soon as possible. To ensure your shares are voted, you may vote your shares over the Internet, by telephone or by requesting a paper proxy card to complete, sign and return by mail. Internet and telephone voting procedures are described in the section of the proxy statement/prospectus under the heading *Special Meeting of Pinnacle Stockholders Voting of Proxies* and on the proxy card.

The Pinnacle board unanimously recommends that the Pinnacle stockholders vote FOR the proposal to adopt the merger agreement; **FOR** the nonbinding compensation proposal; and **FOR** any adjournment.

By Order of the Board of Directors,

M. Kelley Maggs

Executive Vice President, Secretary and General Counsel

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ADDITIONAL INFORMATION

The accompanying document is the proxy statement of Pinnacle for its special meeting of stockholders and the prospectus of Conagra relating to the offer and sale of its common stock to be issued to Pinnacle stockholders in the merger. The accompanying proxy statement/prospectus incorporates important business and financial information about Conagra and Pinnacle from documents that are not included in or delivered with the accompanying proxy statement/prospectus. This information is available to you without charge upon your written or oral request. You can obtain documents incorporated by reference into the accompanying proxy statement/prospectus by requesting them in writing, via email or by telephone, from Conagra or Pinnacle at the following addresses and telephone numbers:

Conagra Brands, Inc.
222 Merchandise Mart Plaza, Suite 1300
Chicago, Illinois 60654

Attention: Investor Relations

Email: ir@conagra.com

Telephone: (312) 549-5000

Pinnacle Foods Inc.

399 Jefferson Road

Parsippany, New Jersey

Attention: Investor Relations

Email: jennifer.halchak@pinnaclefoods.com

Telephone: (973) 541-6620

In addition, if you have questions about the merger or the accompanying proxy statement/prospectus, would like additional copies of the accompanying proxy statement/prospectus or need to obtain a proxy card or other information related to the proxy solicitation, please contact MacKenzie Partners, Inc., Pinnacle's proxy solicitor, toll-free at (800) 322-2885 or (212) 929-5500 or by email: pfproxy@mackenziepartners.com. You will not be charged for any of these documents that you request.

If you would like to request any documents, please do so at least one week before the date of the special meeting to give us time to get them to you before the special meeting.

See the section titled *Where You Can Find More Information* beginning on page 160 of the accompanying proxy statement/prospectus for further information.

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ABOUT THIS PROXY STATEMENT/PROSPECTUS

This proxy statement/prospectus, which forms part of a registration statement on Form S-4 filed with the Securities and Exchange Commission (the "SEC") by Conagra, constitutes a prospectus of Conagra under Section 5 of the Securities Act of 1933, as amended (the "Securities Act"), with respect to shares of Conagra common stock to be issued to Pinnacle stockholders under the merger agreement. This proxy statement/prospectus also constitutes a proxy statement under Section 14(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). It also constitutes a notice of meeting with respect to the special meeting of Pinnacle stockholders, at which meeting Pinnacle stockholders will be asked to vote upon a proposal to adopt the merger agreement, among other things.

You should rely only on the information contained in or incorporated by reference into this proxy statement/prospectus. No one has been authorized to provide you with information that is different from that contained in, or incorporated by reference into, this proxy statement/prospectus. This proxy statement/prospectus is dated as of [], 2018. You should not assume that the information contained in this proxy statement/prospectus is accurate as of any date other than that date. You should not assume that the information incorporated by reference into this proxy statement/prospectus is accurate as of any date other than the date of such incorporated document. Neither the mailing of this proxy statement/prospectus to Pinnacle stockholders nor the issuance by Conagra of its shares of common stock in connection with the merger will create any implication to the contrary.

This proxy statement/prospectus is neither an offer to sell, nor a solicitation of an offer to buy any securities, the solicitation of any vote or approval in any jurisdiction pursuant to or in connection with the merger or otherwise, nor shall there be any sale, issuance or transfer of securities in any jurisdiction in contravention of applicable law. Information contained in this proxy statement/prospectus regarding Pinnacle has been provided by Pinnacle and information contained in this proxy statement/prospectus regarding Conagra has been provided by Conagra.

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ANNEXES

Annex A: Merger Agreement

Annex B: Opinion of Evercore Group L.L.C.

Annex C: Opinion of Credit Suisse Securities (USA) LLC

Annex D: DGCL Section 262

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QUESTIONS AND ANSWERS

*The following questions and answers are intended to address briefly some commonly asked questions regarding the merger, the merger agreement, certain voting procedures and other matters with respect to the special meeting. These questions and answers may not address all questions that may be important to Pinnacle stockholders. To better understand these matters, and for a more complete description of the terms of the merger agreement, the merger and the other transactions contemplated thereby, including certain risks relating to the merger and Conagra following the merger, and the other matters to be voted on and the proceedings to be conducted at the special meeting, you should carefully read this entire proxy statement/prospectus, including each of the attached annexes, as well as the documents that have been incorporated by reference into this proxy statement/prospectus. See the section titled *Where You Can Find More Information* contained in this proxy statement/prospectus.*

Q: Why am I receiving these materials?

A: On June 26, 2018, Pinnacle, Conagra and Merger Sub entered into the merger agreement, which provides for the merger of Merger Sub, a direct wholly owned subsidiary of Conagra, with and into Pinnacle, with Pinnacle surviving the merger as a direct wholly owned subsidiary of Conagra (the surviving corporation). In order to complete the merger, Pinnacle stockholders must vote to adopt the merger agreement. This document is being delivered to you as both a proxy statement of Pinnacle and a prospectus of Conagra in connection with the merger. It is the proxy statement by which the Pinnacle board is soliciting proxies from you to vote in favor of the proposal to adopt the merger agreement at the special meeting or at any adjournment or postponement of the special meeting. This document is also the prospectus for the offering by Conagra of shares of Conagra common stock to pay for the stock portion of the merger consideration, as described below.

Q: What is the proposed transaction?

A: The proposed transaction is the acquisition of Pinnacle by Conagra by means of the merger of Merger Sub, which is a wholly owned subsidiary of Conagra, with and into Pinnacle pursuant to the merger agreement. Following the effective time of the merger, Pinnacle will be a direct wholly owned subsidiary of Conagra. Conagra will issue approximately 77.4 million shares of Conagra common stock to Pinnacle stockholders in the merger (including shares of Conagra common stock to be issued in connection with outstanding Pinnacle equity awards). As a result of these issuances, but without giving effect to any issuance of shares of Conagra common stock as part of a permanent financing to fund a portion of the cash portion of the merger consideration, current Conagra stockholders and Pinnacle stockholders are expected to hold approximately 83.5% and 16.5%, respectively, of Conagra's outstanding shares of common stock immediately following the closing of the merger.

Q: What is the amount of cash and the number of shares of Conagra common stock that I will be entitled to receive for my shares of Pinnacle common stock?

A: If the merger agreement is adopted by the Pinnacle stockholders and the merger is subsequently completed, each issued and outstanding share of Pinnacle common stock (other than appraisal shares (as defined below) and

shares of Pinnacle common stock owned by Pinnacle, Conagra, Merger Sub or any direct or indirect wholly owned subsidiary of Pinnacle or Conagra, and in each case, not held on behalf of third parties) will be converted into the right to receive (i) \$43.11 in cash without interest and (ii) 0.6494 shares of Conagra common stock (together, the merger consideration).

Conagra will not issue any fractional shares of Conagra common stock in the merger and a Pinnacle stockholder who otherwise would have received a fraction of a share of Conagra common stock will receive a cash payment in lieu thereof, without interest, rounded down to the nearest whole cent, equal to the fraction of a share of Conagra common stock (after taking into account all shares of Conagra common stock held by such holder at the effective time of the merger and rounded to the nearest one-thousandth when expressed in

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decimal form to which such holder would otherwise be entitled) multiplied by the average of the closing prices per share of Conagra common stock on NYSE for the ten full trading days ending on the second business day immediately preceding the date on which the effective time of the merger occurs. See the section titled *The Merger Agreement Merger Consideration* contained in this proxy statement/prospectus.

Q: What will happen to outstanding Pinnacle equity awards in the merger?

A: At the effective time of the merger, subject to all required withholding taxes:

Pinnacle options

Each outstanding option to purchase shares of Pinnacle common stock (a *Pinnacle option*) that is unvested immediately prior to the effective time of the merger will be converted into a cash-settled stock appreciation right relating to a number of shares of Conagra common stock (rounded down to the nearest whole share) equal to (i) the number of shares of Pinnacle common stock subject to the unvested Pinnacle option immediately prior to the effective time of the merger multiplied by (ii) the equity award exchange ratio (described below), at a base price per share (rounded up to the nearest whole cent) equal to (x) the exercise price of such Pinnacle option divided by (y) the equity award exchange ratio, and otherwise subject to substantially the same terms and conditions as were applicable to such unvested Pinnacle option immediately prior to the effective time of the merger (subject to certain changes to vesting terms, including those that impact the Pinnacle executive officers, as are further described below). The equity award exchange ratio is the sum of (A) the exchange ratio of 0.6494 plus (B) the quotient of (1) the cash consideration divided by (2) the average of the closing prices per share of Conagra common stock on NYSE for the ten full trading days ending on the second business day immediately preceding the date on which the effective time of the merger occurs;

Each outstanding Pinnacle option that is vested immediately prior to the effective time of the merger will automatically be canceled in exchange for the right to receive an amount, solely in cash, equal to the number of shares of Pinnacle common stock subject to such Pinnacle option immediately prior to the effective time of the merger multiplied by the excess, if any, of the equity award cash-out consideration (described below) over the exercise price per share of such Pinnacle option. The equity award cash-out consideration is the sum of (i) the cash consideration and (ii) the product of (A) the exchange ratio multiplied by (B) the average of the closing prices per share of Conagra common stock on NYSE for the ten full trading days ending on the second business day immediately preceding the date on which the effective time of the merger occurs;

Pinnacle RSUs

Each outstanding restricted stock unit of Pinnacle subject only to time-based vesting requirements (a *Pinnacle RSU*) that is unvested immediately prior to the effective time of the merger will be converted into a cash-settled restricted stock unit relating to a number of shares of Conagra common stock (rounded up to the nearest whole share) equal to (i) the number of shares of Pinnacle common stock subject to the unvested Pinnacle RSU immediately prior to the effective time of the merger multiplied by (ii) the equity award

exchange ratio, and otherwise subject to substantially the same terms and conditions as were applicable to such unvested Pinnacle RSU immediately prior to the effective time of the merger (subject to certain changes to vesting terms, including those that impact the Pinnacle executive officers, as are further described below);

Each outstanding Pinnacle RSU that is vested immediately prior to the effective time of the merger, will be canceled and converted into the right to receive an amount in cash equal to the equity award cash-out consideration and an amount in cash equal to any accumulated and unpaid dividend equivalents;

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Pinnacle PSUs

Each outstanding restricted stock unit of Pinnacle subject to performance-based vesting requirements (a Pinnacle PSU) that is unvested immediately prior to the effective time of the merger will be canceled and converted into a time-based cash-settled restricted stock unit related to a number of shares of Conagra common stock (rounded up to the nearest whole share) equal to (i) the number of shares of Pinnacle common stock subject to the unvested Pinnacle PSU immediately prior to the effective time of the merger, based on actual performance, as determined by the Pinnacle board and reasonably agreed to by the Conagra board immediately prior to the effective time of the merger, multiplied by (ii) the equity award exchange ratio, and otherwise subject to substantially the same terms and conditions as were applicable to such unvested Pinnacle PSU immediately prior to the effective time of the merger (other than performance-based vesting conditions and subject to certain changes to vesting terms, including those that impact the Pinnacle executive officers, as are further described below);

Each outstanding Pinnacle PSU that is vested immediately prior to the effective time of the merger will be canceled and converted into the right to receive an amount in cash equal to the product of (i) the number of shares of Pinnacle common stock underlying such Pinnacle PSU, based on actual performance, as determined by the Pinnacle board and reasonably agreed to by the Conagra board immediately prior to the effective time of the merger and (ii) the equity award cash-out consideration plus an amount in cash equal to any accumulated and unpaid dividend equivalents with respect to such vested Pinnacle PSU;

Pinnacle PSAs

Each outstanding unvested Pinnacle performance-based restricted share award will be deemed to be two separate awards, the issued restricted share portion (a Pinnacle PSA), which will become vested based on actual performance as determined by the Pinnacle board and reasonably agreed to by the Conagra board immediately prior to the effective time of the merger, and the performance share unit portion of which will be treated as an unvested Pinnacle PSU as set forth above; and

Each vested Pinnacle PSA (including the portion that vests in accordance with the foregoing) will be canceled and converted into the right to receive the merger consideration and an amount in cash equal to any accumulated and unpaid dividend equivalents.

See the section titled *The Merger Agreement Treatment of Pinnacle Equity Awards* contained in this proxy statement/prospectus.

Q: Do any of Pinnacle's directors or executive officers have any interests in the merger that are different from, or in addition to, my interests as a stockholder?

A: In considering the proposals to be voted on at the special meeting, you should be aware that Pinnacle's directors and executive officers have interests in the merger that may be different from, or in addition to, the interests of

Pinnacle stockholders generally. These interests include, among others, the treatment of outstanding equity awards pursuant to the merger agreement, potential severance benefits and other payments and rights to ongoing indemnification and insurance coverage. The members of the Pinnacle board were aware of and considered these interests in reaching the determination to approve the merger agreement and recommend that the holders of Pinnacle common stock vote their shares to adopt the merger agreement. For more information, please see the section titled *The Merger Agreement Proposal Interests of Pinnacle's Directors and Executive Officers in the Merger* contained in this proxy statement/prospectus.

Q: How does the merger consideration compare to the market price of Pinnacle common stock?

A: Based on the volume weighted average price per share of Conagra common stock for the five consecutive trading days ending June 21, 2018 on NYSE, the merger consideration represented approximately \$68.00

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per share of Pinnacle common stock. This price represented a premium of approximately 23.2% to the closing price of Pinnacle common stock of \$55.20 on NYSE on April 19, 2018 (which was the last trading day prior to the announcement that Jana Partners LLC had made a substantial investment in Pinnacle, leading to speculation that Pinnacle would consider a potential sale transaction) and a premium of approximately 0.2% to the closing price of Pinnacle common stock of \$67.86 on NYSE on June 26, 2018, the last trading day before the public announcement of the merger agreement. Based on the closing price of \$[] per share of Conagra common stock on NYSE on [], 2018, the last practicable date before the date of this proxy statement/prospectus, the merger consideration represented approximately \$[] per share of Pinnacle common stock.

Changes in the market price of shares of Conagra common stock prior to the closing of the merger will affect the value of the stock consideration. Accordingly, we urge you to obtain the latest market quotations for shares of Conagra common stock prior to submitting your vote or attending the special meeting. Shares of Pinnacle common stock are currently traded on NYSE under the symbol PF , and shares of Conagra common stock are currently traded on NYSE under the symbol CAG .

Q: What am I being asked to consider and vote on?

A: Pinnacle stockholders are being asked to consider and vote on the following proposals:

- (1) to adopt the merger agreement;
- (2) to approve the nonbinding compensation proposal; and
- (3) to approve the adjournment of the special meeting, if necessary or appropriate, to solicit additional proxies in favor of the proposal to adopt the merger agreement.

Q: How does the Pinnacle board recommend that I vote on the matters to be considered at the special meeting?

A: The Pinnacle board unanimously recommends that Pinnacle stockholders vote:

FOR the proposal to adopt the merger agreement;

FOR the nonbinding compensation proposal; and

FOR the adjournment of the special meeting, if ne