

Fabrinet
Form S-8
December 19, 2017

As filed with the Securities and Exchange Commission on December 19, 2017

Registration No. 333-

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

FORM S-8
REGISTRATION STATEMENT

Under
The Securities Act of 1933

FABRINET

(Exact name of Registrant as specified in its charter)

Cayman Islands
(State or other jurisdiction of
incorporation or organization)

Not applicable
(I.R.S. Employer
Identification Number)

c/o Intertrust Corporate Services (Cayman) Limited

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190 Elgin Avenue

George Town

Grand Cayman, KY1-9005

Cayman Islands

(Address of principal executive offices)(Zip code)

Fabrinet 2010 Performance Incentive Plan

(Full title of the plan)

Colin R. Campbell

General Counsel

c/o Fabrinet West, Inc.

4900 Patrick Henry Drive

Santa Clara, CA 95054

(408) 748-0900

(Name, address and telephone number, including area code, of agent for service)

Copies to:

Jose F. Macias

Wilson Sonsini Goodrich & Rosati,

Professional Corporation

650 Page Mill Road

Palo Alto, CA 94304-1050

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

Large accelerated filer

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 the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

| Title of Securities to be Registered | Amount to be Registered⁽¹⁾ | Proposed Maximum Offering Price Per Share⁽²⁾ | Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|---|--|--|--|---------------------------------------|
| Ordinary shares, \$0.01 par value per share, reserved for issuance pursuant to the Fabrinet 2010 Performance Incentive Plan | 2,100,000 | \$30.13 | \$63,273,000 | \$7,877.49 |

- (1) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended (the Securities Act), this Registration Statement shall also cover any additional shares of the Registrant's ordinary shares that become issuable under the Fabrinet 2010 Performance Incentive Plan (the 2010 Plan) by reason of any share dividend, share split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of the Registrant's outstanding ordinary shares.
- (2) Estimated in accordance with Rules 457(c) and (h) of the Securities Act solely for the purpose of calculating the registration fee on the basis of \$30.13 per share, which represents the average of the high and low sale prices per share of the Registrant's ordinary shares as reported on the New York Stock Exchange on December 14, 2017.

PART I

INFORMATION REQUIRED IN THE PROSPECTUS

The information specified in Item 1 and Item 2 of Part I of Form S-8 is omitted from this Registration Statement on Form S-8 (the "Registration Statement") in accordance with the provisions of Rule 428 under the Securities Act of 1933, as amended (the "Securities Act"), and the introductory note to Part I of Form S-8. The documents containing the information specified in Part I of Form S-8 will be delivered to the participants in the equity benefit plan covered by this Registration Statement as specified by Rule 428(b)(1) under the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The Registrant hereby incorporates by reference into this Registration Statement the following documents and information previously filed with the Securities and Exchange Commission (the "Commission"):

(1) The Registrant's Annual Report on Form 10-K for the fiscal year ended June 30, 2017 (File No. 001-34775), filed with the Commission on August 23, 2017, pursuant to Section 13 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), including portions of the Registrant's Proxy Statement on Schedule 14A filed on October 20, 2017, to the extent incorporated by reference into such Annual Report;

(2) All other reports filed with the Commission pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the Registrant's Annual Report referred to in (1) above; and

(3) The description of the Registrant's ordinary shares contained in the Registrant's Registration Statement on Form 8-A (File No. 001-34775) filed with the Commission on June 14, 2010, pursuant to Section 12(b) of the Exchange Act, including any amendment or report filed for the purpose of updating such description.

All documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act on or after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement that indicates that all securities offered have been sold or that deregisters all securities then remaining unsold shall be deemed to be incorporated by reference in this Registration Statement and to be part hereof from the date of filing of such documents; *provided, however*, that documents or information deemed to have been furnished and not filed in accordance with the rules of the Commission shall not be deemed incorporated by reference into this Registration Statement.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document which also is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Cayman Islands law does not limit the extent to which a company's memorandum and articles of association may provide for indemnification of directors and officers, except to the extent any such provision may be held by the Cayman Islands courts to be contrary to public policy, such as to provide indemnification against civil fraud or the consequences of committing a crime. The Registrant's amended and restated memorandum and articles of association provide for indemnification of directors and officers for actions, costs, charges, losses, damages and expenses incurred in their capacities as such, except that such indemnification does not extend to any matter in respect of any fraud or dishonesty that may attach to any of them.

The Registrant has entered into, and expects to continue to enter into, agreements to indemnify its directors and officers. These indemnification agreements generally provide that the Registrant will indemnify its directors and officers against certain liabilities and expenses incurred by such persons in connection with claims by reason of their being such a director or officer.

In addition to the indemnification provisions set forth above, the Registrant also maintains directors' and officers' liability insurance. These indemnification provisions and the indemnification agreements entered into between the Registrant and its directors and officers may be sufficiently broad to permit indemnification of the Registrant's directors and officers for liabilities (including reimbursement of expenses incurred) arising under the Securities Act.

See also Registrant's undertakings in Item 9 of this Registration Statement.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

| Exhibit Number | Description | Incorporated by reference herein | | | |
|-------------------|--|----------------------------------|----------------|-------------------|-----------|
| | | Form | Exhibit No. | Filing Date | File No. |
| 5.1 | <u>Opinion of Walkers, regarding the legality of the securities being registered</u> | | | | |
| 23.1 | <u>Consent of PricewaterhouseCoopers ABAS Ltd.</u> | | | | |
| 23.2 | <u>Consent of Walkers (contained in Exhibit 5.1 hereto)</u> | | | | |
| 24.1 | <u>Power of Attorney (included as part of the signature page hereto)</u> | | | | |
| 99.1.1 | <u>Fabrinet 2010 Performance Incentive Plan, as amended</u> | 8-K | 10.1 | December 15, 2017 | 001-34775 |
| 99.1.2 | <u>Form of Share Option Agreement under the Fabrinet 2010 Performance Incentive Plan</u> | 10-Q | 10.2 | February 5, 2013 | 001-34775 |
| 99.1.3 | <u>Form of Restricted Share Agreement under the Fabrinet 2010 Performance Incentive Plan</u> | 10-Q | 10.3 | February 5, 2013 | 001-34775 |
| 99.1.4 | <u>Form of Restricted Share Unit Agreement under the Fabrinet 2010 Performance Incentive Plan</u> | 10-Q | 10.4 | February 5, 2013 | 001-34775 |
| 99.1.5 | <u>Form of Performance Share Unit Agreement under the Fabrinet 2010 Performance Incentive Plan</u> | 10-Q | 10.5 | November 9, 2016 | 001-34775 |

Item 9. Undertakings.

A. The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement.

Provided, however, that paragraphs (A)(1)(i) and (A)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

B. The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

C. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palo Alto, State of California, on December 19, 2017.

FABRINET

By: /s/ Seamus Grady
 Seamus Grady
 Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Seamus Grady and Toh-Seng Ng, and each of them, as his or her true and lawful attorney in fact and agent with full power of substitution, for him or her in any and all capacities, to sign any and all amendments to this Registration Statement on Form S-8 (including post effective amendments), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney in fact, proxy and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully for all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorney in fact, proxy and agent, or his or her substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement on Form S-8 has been signed by the following persons in the capacities and on the dates indicated.

| Signature | Title | Date |
|-----------------------|--|-------------------|
| /s/ Seamus Grady | Chief Executive Officer and Director | December 19, 2017 |
| Seamus Grady | (Principal Executive Officer) | |
| /s/ Toh-Seng Ng | Chief Financial Officer (Principal Financial | December 19, 2017 |
| Toh-Seng Ng | Officer and Principal Accounting Officer) | |
| /s/ David T. Mitchell | Executive Chairman and Director | December 19, 2017 |
| David T. Mitchell | | |
| /s/ Homa Bahrami | Director | December 19, 2017 |
| Homa Bahrami | | |
| /s/ Thomas F. Kelly | Director | December 19, 2017 |

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Thomas F. Kelly

/s/ Frank H. Levinson

Director

December 19, 2017

Frank H. Levinson

/s/ Rollance E. Olson

Director

December 19, 2017

Rollance E. Olson