

WENDY'S/ARBY'S GROUP, INC.

Form S-3ASR

November 12, 2008

As filed with the Securities and Exchange Commission on November 10, 2008

Registration No. 333-

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM S-3

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

WENDY'S/ARBY'S GROUP, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State of incorporation)

38-0471180

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

1155 Perimeter Center West, 12th Floor

Atlanta, GA 30338

(678) 514-4100

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Nils H. Okeson, Esq.

1155 Perimeter Center West, 12th Floor

Atlanta, GA 30338

(678) 514-4100

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

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Copies to:

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1285 Avenue of the Americas

New York, New York 10019-6064

(212) 373-3000

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this Registration Statement.

If the only securities being registered on this Form are to be offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are being offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, 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, please 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(c) 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 registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

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.

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Aggregate Amount to be Registered(1)	Proposed Maximum Offering Price per Unit(1)	Proposed Maximum Aggregate Offering Price(1)	Amount of Registration Fee(1)
Class A Common Stock(2)				
Preferred Stock(2)				
Senior Debt Securities and Subordinated Debt Securities (collectively, "debt securities")(2)				
Depository Shares				
Warrants				
Purchase Contracts				
Units				

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- (1) Pursuant to General Instruction II.E., this information is not required to be included. An indeterminate aggregate initial offering price or number of shares of common stock shares of preferred stock, debt securities, depositary shares, warrants, purchase contracts and units of Wendy's/Arby's Group, Inc. is being registered as may from time to time be issued at currently indeterminable prices. Securities registered hereunder may be sold separately or together with other securities registered hereunder. The proposed maximum initial offering prices per security will be determined, from time to time, by Wendy's/Arby's Group, Inc. Prices, when determined, may be in U.S. dollars or the equivalent thereof in one or more foreign currencies, foreign currency units or composite currencies. If any debt securities or preferred stock are issued at an original issue discount, then the amount registered will include the principal or liquidation amount of such securities measured by the initial offering price thereof. In reliance on Rule 456(b) and Rule 457(r) under the Securities Act, Wendy's/Arby's Group, Inc. hereby defers payment of the registration fee required in connection with this registration statement, except for \$161,800 that has already been paid with respect to \$2,000,000,000 of securities that were previously registered pursuant to Registration Statement No. 333-110929 filed on December 4, 2003 and were not sold thereunder.
 - (2) Including an indeterminate number of shares of common stock and preferred stock as may from time to time be issued upon conversion or exchange of debt securities or preferred stock, or upon the exercise of warrants or purchase contracts, as the case may be.
-

PROSPECTUS

[WENDY'S/ARBY'S LOGO]

Common Stock

Preferred Stock

Debt Securities

Depository Shares

Warrants

Purchase Contracts

Units

This prospectus contains a general description of securities that may be offered for sale by us or by the selling stockholders from time to time. The specific terms of the securities, including their offering prices, will be contained in one or more supplements to this prospectus. You should read this prospectus and any supplement carefully before you invest.

The securities will be issued by Wendy's/Arby's Group, Inc. The common stock of Wendy's/Arby's Group, Inc. is listed on the New York Stock Exchange under the trading symbol "WEN."

Investing in our securities involves risks that are referenced under the caption "Risk Factors" on page of this prospectus.

These securities have not been approved or disapproved by the Securities and Exchange Commission or any state securities commission nor has the Securities and Exchange Commission or any state securities commission passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is November 10, 2008.

TABLE OF CONTENTS

Page

About This Prospectus	1
Where You Can Find More Information	2
Incorporation by Reference	3
Statements Regarding Forward-Looking Information	4
The Company	6
Risk Factors	6
Ratio of Earnings to Fixed Charges	6
Use of Proceeds	7
Description of Capital Stock	8
Description of the Debt Securities	17
Description of the Depositary Shares	30
Description of the Warrants	34
Description of the Purchase Contracts	37
Description of the Units	38
Plan of Distribution	39
Legal Matters	42
Experts	42

ABOUT THIS PROSPECTUS

To understand the terms of the securities offered by this prospectus, you should carefully read this prospectus and any applicable prospectus supplement. You should also read the documents referenced under the heading “Where You Can Find More Information” for information on Wendy’s/Arby’s Group, Inc. and its financial statements. Certain capitalized terms used in this prospectus are defined elsewhere in this prospectus.

This prospectus is part of a registration statement that Wendy’s/Arby’s Group, Inc. has filed with the U.S. Securities and Exchange Commission, or the SEC, using a “shelf” registration procedure. Under this procedure, we may offer and sell from time to time, any of the following securities, in one or more series:

- Class A common stock, par value \$.10 per share (the “common stock”),
- preferred stock,
- debt securities,
- depositary shares,
- warrants,
- purchase contracts, and
- units.

In addition, the selling stockholders may offer and sell from time to time shares of our common stock.

As described under the heading "Plan of Distribution," certain third parties may also offer securities from time to time. The securities may be sold for U.S. dollars, foreign-denominated currency or currency units. Amounts payable with respect to any securities may be payable in U.S. dollars or foreign-denominated currency or currency units as specified in the applicable prospectus supplement.

This prospectus provides you with a general description of the securities that may be offered. Each time we or the selling stockholders sell securities, we will provide you with a prospectus supplement that will describe the specific amounts, prices and terms of the securities being offered. The prospectus supplement may also add, update or change information contained or incorporated by reference in this prospectus.

The prospectus supplement may also contain information about any material U.S. federal income tax considerations relating to the securities covered by the prospectus supplement.

We or the selling stockholders may sell these securities on a continuous or delayed basis directly, through agents, dealers or underwriters as designated from time to time, or through a combination of these methods. We and the selling stockholders reserve the sole right to accept, and together with any agents, dealers and underwriters, reserve the right to reject, in whole or in part, any proposed purchase of securities. If any agents, dealers or underwriters are involved in the sale of any securities, the applicable prospectus supplement will set forth any applicable commissions or discounts. The net proceeds to us or the selling stockholders from the sale of securities also will be set forth in the applicable prospectus supplement.

The prospectus supplement will also contain, with respect to the securities being sold by us or the selling stockholders, the names of any underwriters, dealers or agents, together with the terms of the offering, the compensation of any underwriters and the net proceeds to us.

Any underwriters, dealers or agents participating in the offering may be deemed "underwriters" within the meaning of the Securities Act of 1933, as amended, which we refer to in this prospectus as the "Securities Act."

As used in this prospectus, unless the context requires otherwise, the terms "we," "us," "our," "Wendy's/Arby's Group" or "the Company" refer to Wendy's/Arby's Group, Inc., a Delaware corporation.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC under the Securities Exchange Act of 1934, as amended, which we refer to in this prospectus as the "Exchange Act." You may obtain such SEC filings from the SEC's website at <http://www.sec.gov>. You may also read and copy these materials at the SEC's public reference room at 100 F Street, N.E., Washington, D.C. 20549. You can obtain information about the operation of the SEC's public reference room by calling the SEC at 1-800-SEC-0330. You can also obtain information about Wendy's/Arby's Group at the offices of the New York Stock Exchange, 20 Broad Street, New York, New York 10005.

As permitted by SEC rules, this prospectus does not contain all of the information we have included in the registration statement and the accompanying exhibits and schedules we file with the SEC. You may refer to the registration statement, exhibits and schedules for more

information about us and the securities. The registration statement, exhibits and schedules are available through the SEC's website or at its public reference room.

INCORPORATION BY REFERENCE

The SEC allows us to "incorporate by reference" information we have filed with it, which means that we can disclose important information to you by referring you to those documents. The information we incorporate by reference is an important part of this prospectus, and later information that we file with the SEC will automatically update and supersede this information. The following documents have been filed with the SEC and are incorporated by reference into this prospectus:

- Our Annual Report on Form 10-K for the year ended December 30, 2007 (filed February 29, 2008 and amended on March 14, 2008 and April 25, 2008), including portions of our Proxy Statement for the 2008 annual meeting of stockholders (filed April 29, 2008) to the extent specifically incorporated by reference therein;
- Our Quarterly Reports on Form 10-Q for the quarters ended March 30, 2008 (filed on May 9, 2008), June 29, 2008 (filed August 5, 2008) and September 28, 2008 (filed November 6, 2008);
- Our Current Reports on Form 8-K filed on January 4, 2008, March 12, 2008, March 19, 2008, April 24, 2008, April 29, 2008, July 25, 2008, September 15, 2008, September 29, 2008 and November 6, 2008 (other than any portion of such filings that are furnished under applicable SEC rules rather than filed);
- Our solicitation/recommendation statement on Schedule 14D-9, filed on November 7, 2008;
- The audited financial statements and related notes thereto of Wendy's International, Inc. contained in Wendy's International, Inc.'s annual report on Form 10-K for the fiscal year ended December 30, 2007, filed on February 27, 2008, as amended by Amendment No. 1 thereto, filed on Form 10-K/A on April 28, 2008;
- The unaudited financial statements and related notes thereto of Wendy's International, Inc. contained in Wendy's International, Inc.'s quarterly reports on Form 10-Q for the three months ended March 30, 2008, filed on May 8, 2008 and June 29, 2008, filed on August 6, 2008; and
- The description of the common stock set forth in our Amendment to our Registration Statement on Form 8-A filed pursuant to Section 12 of the Exchange Act on September 29, 2008, and any amendment or report filed for the purpose of updating any such description.

All documents and reports that we file with the SEC (other than any portion of such filings that are furnished under applicable SEC rules rather than filed) under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act from the date of this prospectus until the termination of the offering under this prospectus shall be deemed to be incorporated in this prospectus by reference. The information contained on our website (<http://www.wendysarbys.com>) is not incorporated into this prospectus.

You may request a copy of these filings, other than an exhibit to these filings unless we have specifically included or incorporated that exhibit by reference into the filing, from the SEC as described under "Where You Can Find More Information" or, at no cost, by writing or telephoning Wendy's/Arby's Group at the following address:

Wendy's/Arby's Group, Inc.

1155 Perimeter Center West

Atlanta, Georgia 30338

Attention: Office of the General Counsel

Telephone: (678) 514-4100

You should rely only on the information contained or incorporated by reference in this prospectus, the prospectus supplement, any free writing prospectus that we authorize and any pricing supplement that we authorize. We have not authorized any person, including any underwriter, salesperson or broker, to provide information other than that provided in this prospectus, the prospectus supplement, any free writing prospectus that we authorize or any pricing supplement that we authorize. We have not authorized anyone to provide you with different information. We are not making an offer of the securities in any jurisdiction where the offer is not permitted.

You should assume that the information in this prospectus, the prospectus supplement, any free writing prospectus that we authorize and any pricing supplement that we authorize is accurate only as of the date on its cover page and that any information we have incorporated by reference is accurate only as of the date of such document incorporated by reference.

Any statement contained in a document incorporated or deemed to be incorporated by reference into this prospectus will be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained in this prospectus or any other subsequently filed document that is deemed to be incorporated by reference into this prospectus modifies or supersedes the statement. Any statement so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

STATEMENTS REGARDING FORWARD-LOOKING INFORMATION

This prospectus and the documents incorporated by reference contain certain statements that are not historical facts, including, importantly, information concerning possible or assumed future results of operations of Wendy's/Arby's Group and its subsidiaries. Those statements, as well as statements preceded by, followed by, or that include the words "may," "believes," "plans," "expects," "anticipates," or the negation thereof, or similar expressions, constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995 (the "Reform Act"). All statements that address future operating financial or business performance; strategies or expectations; future synergies, efficiencies or overhead savings; anticipated costs or charges; future capitalization; and anticipated financial impacts of recent or pending transactions are forward-looking statements within the meaning of the Reform Act. The forward-looking statements are based on our expectations at the time such statements are made, speak only as of the dates they are made and are susceptible to a number of risks, uncertainties and other factors. Our actual results, performance and achievements may differ materially from any future results, performance or achievements expressed or implied by our forward-looking statements. For all of our forward-looking statements, we claim the protection of the safe harbor for forward-looking statements contained in the Reform Act. Many important factors could affect our future results and could cause those results to differ materially from those expressed in, or

implied by the forward-looking statements contained herein. Such factors, all of which are difficult or impossible to predict accurately, and many of which are beyond our control, include, but are not limited to: (1) changes in the quick service restaurant industry; (2) prevailing economic, market and business conditions affecting the Company, including competition from other food service providers; (3) conditions beyond the Company's control such as weather, natural disasters, disease outbreaks, epidemics or pandemics impacting the Company's customers or food supplies or acts of war or terrorism; (4) changes in the interest rate environment; (5) changes in debt, equity and securities markets; (6) increasing costs associated with food, supplies, energy, fuel, distribution and labor; (7) the availability of suitable locations and terms for the sites designated for development; (8) cost and availability of capital; (9) adoption of new, or changes in, accounting policies and practices; and (10) other factors discussed from time to time in the Company's news releases, public statements and/or filings with the SEC, including those identified in the "Risk Factors" sections of Wendy's/Arby's Group's Annual and Quarterly Reports on Forms 10-K and 10-Q.

All future written and oral forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to above. New risks and uncertainties arise from time to time, and it is impossible for us to predict these events or how they may affect us. We assume no obligation to update any forward-looking statements as a result of new information, future events or developments, except as required by federal securities laws. In addition, it is our policy generally not to make any specific projections as to future earnings, and we do not endorse any projections regarding future performance that may be made by third parties.

THE COMPANY

We are one of the leading quick-service restaurant companies in the United States and we are the franchisor of the Wendy's® and Arby's® restaurant systems. The combined restaurant systems include more than 10,000 restaurants in 50 states and 21 countries worldwide. To learn more about Wendy's/Arby's Group, please visit the company's web site at www.wendysarbys.com.

On September 29, 2008, pursuant to the terms of the Agreement and Plan of Merger dated as of April 23, 2008, as amended, by and among Triarc Companies, Inc. ("Triarc"), Green Merger Sub, Inc., a wholly-owned subsidiary of Triarc ("Merger Sub"), and Wendy's International, Inc. ("Wendy's"), Wendy's merged with and into Merger Sub, with Wendy's surviving as a wholly-owned subsidiary of Triarc. In connection with the merger, Triarc changed its name to Wendy's/Arby's Group, Inc.

For a description of our business, financial condition, results of operations and other important information regarding the Company, we refer you to our filings with the SEC incorporated by reference in this prospectus. For instructions on how to find copies of these documents, see "Where You Can Find More Information."

We are organized under the laws of Delaware. Our principal executive office is located at 1155 Perimeter Center West, Atlanta, Georgia 30338, telephone (678) 514-4100.

RISK FACTORS

Investing in our securities involves risk. You should carefully consider the specific risks discussed or incorporated by reference in the applicable prospectus supplement, together with all the other information contained in the prospectus supplement or incorporated by reference in this prospectus and the applicable prospectus supplement. You should also consider the risks, uncertainties and assumptions discussed under the caption "Risk Factors" included in our Annual Report on Form 10-K for the year ended December 30, 2007, as updated by the risks, uncertainties and assumptions discussed under the caption "Risk Factors" included in our Quarterly Reports on Form 10-Q for the quarters ended March 30, 2008, June 29, 2008 and September 28, 2008, which are incorporated by reference in this prospectus. These risk factors may be amended, supplemented or superseded from time to time by other reports we file with the SEC in the future.

RATIO OF EARNINGS TO FIXED CHARGES

The following table sets forth our consolidated ratio of earnings to fixed charges for each of the periods indicated. For the purpose of calculating the consolidated ratio of earnings to fixed charges, "earnings" represents pre-tax income plus amortization of capitalized interest and fixed charges, and less interest capitalized. "Fixed charges" consists of interest expense, whether expensed or capitalized, amortization of debt financing costs, and one-third of lease expense. You should read these ratios in connection with our consolidated financial statements, including the notes to those statements, incorporated by reference in this prospectus.

	Pro Forma for the Nine Months Ended			Pro Forma for the Year Ended (2)					
	Nine Months Ended (2) September 28, 2008	September 28, 2008	September 30, 2007	Year Ended December 30, 2007	December 30, 2007	December 31, 2006	January 1, 2006	January 2, 2005	December 28, 2003
Ratio of earnings to fixed charges ⁽¹⁾	-- (3)	-- (3)	-- (3)	1.65	1.18	1.06	-- (3)	-- (3)	-- (3)

(1) Currently, we have no shares of preferred stock outstanding and have not paid any dividends on preferred stock in the periods presented. Therefore, the ratio of earnings to combined fixed charges and preference dividends is not different from the ratio of earnings to fixed charges.

(2) Pro forma for the merger that was completed on September 29, 2008 between Triarc, Merger Sub and Wendy's, whereby Wendy's merged with and into Merger Sub, with Wendy's surviving as a wholly-owned subsidiary of Triarc.

- (2) E
- (3) Earnings were insufficient to cover fixed charges by \$64.2 million, \$14.2 million and \$15.3 million in the years ended January 1, 2006, January 2, 2005 and December 28, 2003 respectively. Earnings were insufficient to cover fixed charges by \$98.9 million and \$36.7 million in the nine months ended September 28, 2008 and September 30, 2007, respectively. For the pro forma nine months ended September 28, 2008 earnings were insufficient to cover fixed charges by \$87.2 million.

USE USE OF PROCEEDS

We will use the net proceeds we receive from the sale of the securities offered by this prospectus for general corporate purposes, unless we specify otherwise in the applicable prospectus supplement. General corporate purposes may include additions to working capital, capital expenditures, repayment of debt, the financing of possible acquisitions and investments or stock repurchases.

We will not receive any proceeds from the resale of shares of common stock by selling stockholders under this prospectus or any supplement to it.

DESCRIPTION OF CAPITAL STOCK

The following description of the terms of our common stock and preferred stock sets forth certain general terms and provisions of our common stock and preferred stock, par value \$0.10 per share, to which any prospectus supplement may relate. This section also summarizes relevant provisions of Delaware law. The following summary of the terms of our common stock and preferred stock does not purport to be complete and is subject to, and is qualified in its entirety by reference to, the applicable provisions of Delaware law and our amended and restated articles of incorporation and our amended and restated by-laws, copies of which are exhibits to the registration statement of which this prospectus forms a part.

Capital Stock

Our authorized capital stock currently consists of 1,500,000,000 shares of common stock and 100,000,000 shares of preferred stock. As of October 31, 2008, we had 469,769,742 outstanding shares of common stock, including vested and unvested shares of restricted stock and excluding the following shares of common stock:

- 24,135,241 shares of common stock issuable upon the exercise of stock options outstanding as of October 31, 2008, with a weighted-average exercise price of \$7.98 per share; and
- 21,968,942 shares of common stock reserved for future awards under our equity award plans.

As of October 31, 2008, we had no shares of preferred stock outstanding. As of October 31, 2008, there were approximately 64,523 holders of record of our common stock.

Common Stock

Holders of our common stock are entitled to one vote for each share held of record on all matters on which stockholders are entitled to vote, including the election of directors. The outstanding shares of Common stock are fully paid and nonassessable. Additional authorized but unissued Common stock may be issued by our board of directors without the approval of our stockholders.

Pre-emptive Rights

Under Delaware law, a stockholder is not entitled to pre-emptive rights to subscribe for additional issuances of Common stock or any other class or series of common stock or any security convertible into such stock in proportion to the shares that are owned unless there is a provision to the contrary in our certificate of incorporation. Our certificate of incorporation does not provide that the stockholders are entitled to pre-emptive rights. The Company is prohibited from issuing its preferred stock of to affiliates of the Company, unless offered ratably to the holders of the Common stock, subject to an exception in the case that the Company is in financial distress and the issuance is approved by the audit committee of the board of directors.

Certain Anti-takeover Provisions

Certain provisions in our certificate of incorporation are intended to discourage or delay a hostile takeover of control of the Company. These provisions, in general terms, (i) provide that the number of directors shall not be less than seven nor more than 15, with the exact number to be

determined from time to time by a majority of the board of directors then in office; (ii) provide that vacancies on the board of directors resulting from an increase in size, removal of directors or otherwise may be filled only by a majority of the remaining directors then in office; and (iii) require the affirmative vote of the holders of shares representing at least 75% of the voting power of the “voting shares” in order to enter into certain “business combinations,” unless (A) such business combinations are approved by at least a majority of the board of directors, but only if a majority of the directors acting favorably on the matter are “continuing directors,” or (B) certain minimum price, form of consideration and procedural requirements are met. The term “voting shares” is defined as any issued and outstanding shares of the Company’s capital stock entitled to vote generally in the election of directors. Each of the provisions has particular anti-takeover effects associated with it, and these effects together with a more detailed description of each provision are set forth below. In addition, the anti-takeover provisions are interrelated and have cumulative anti-takeover effects.

The principal purpose of these provisions is to provide a measure of assurance that a stockholder or group of stockholders owning a controlling interest in the Company’s stock do not exercise their voting power in a manner which our board of directors believes would be to the detriment of the remaining stockholders. The provisions are further intended to make it more difficult for a hostile or unfriendly party to obtain control over the Company by replacing the board of directors.

Size of the Board of Directors and Filling Vacancies on the Board of Directors