

TRAVELCENTERS OF AMERICA LLC

Form S-8

May 23, 2018

As filed with the Securities and Exchange Commission on May 23, 2018

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form S-8

REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933

TRAVELCENTERS OF AMERICA LLC

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

20-5701514
(I.R.S. Employer
Identification No.)

24601 Center Ridge Road, Suite 200
Westlake, OH 44145-5639
(Address of principal executive offices) (zip code)

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TravelCenters of America LLC

2016 Equity Compensation Plan, as amended

(Full title of the plan)

William E. Myers

Executive Vice President, Chief Financial Officer and Treasurer

TravelCenters of America LLC

24601 Center Ridge Road

Westlake, Ohio 44145

(Name and address of agent for service)

(440) 808-9100

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

Copies to:

Mark R. Young, Esq.

Executive Vice President and General Counsel
TravelCenters of America LLC
Two Newton Place
255 Washington Street
Newton, MA 02458
(617) 796-8157

Margaret R. Cohen, Esq.

Skadden, Arps, Slate, Meagher & Flom LLP
500 Boylston Street
Boston, MA 02116
(617) 573-4800

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 ☐

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

Accelerated filer ☒

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(3)	Proposed Maximum Aggregate Offering Price(3)	Amount of Registration Fee(4)
Common shares, no par value	2,000,000(2)	\$3.25	\$6,500,000	\$809.25
(1) Pursuant to Rule 416 under the Securities Act of 1933, as amended (the Securities Act), this registration statement on Form S-8 (this Registration Statement) shall also cover, in addition to the number of shares stated above, an indeterminate number of additional common shares, no par value (Common Shares), of TravelCenters of America LLC (the Registrant), which may become issuable under the TravelCenters of America LLC 2016 Equity Compensation Plan, as amended (the Plan), by reason of certain corporate transactions or events, including any stock dividend, stock split, recapitalization or any other similar transaction effected which results in an increase in the number of the Registrant's outstanding Common Shares.				
(2) Represents solely the additional 2,000,000 Common Shares newly available for grant under the Plan.				
(3) This amount is estimated in accordance with paragraphs (c) and (h) of Rule 457 under the Securities Act solely for the purpose of calculating the registration fee based upon the average of the high and low sales prices per Common Share as reported on The Nasdaq Stock Market LLC on May 16, 2018.				
(4) The registration fee has been calculated pursuant to Section 6(b) of the Securities Act by multiplying .0001245 by the proposed maximum aggregate offering price (as computed in accordance with Rule 457 under the Securities Act solely for the purpose of determining the registration fee of the securities registered hereby).				

EXPLANATORY NOTE

At the 2018 Annual Meeting of Shareholders of the Registrant held on May 23, 2018, the Registrant's shareholders approved an amendment to the Plan, to increase by 2,000,000 the total number of Common Shares available for grant under the Plan to 4,300,000 Common Shares.

This Registration Statement is intended to register the additional 2,000,000 Common Shares available for grant under the Plan, as such number may be adjusted under the Plan.

Part I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Item 1. Plan Information.*

Item 2. Registrant Information and Employee Plan Annual Information.*

* All information required by Part I to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act and the Note to Part I of Form S-8.

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 filed with the Securities and Exchange Commission (the "SEC"):

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- (a) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2017 filed on February 28, 2018, as amended by Amendment No. 1 to the Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2017 filed on March 6, 2018;
- (b) The Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2018 filed on May 7, 2018;
- (c) The Registrant's Current Reports on Form 8-K filed on February 26, 2018, March 16, 2018 and April 13, 2018;
- (d) The information identified as incorporated by reference under Items 10, 11, 12, 13 and 14 of Part III of the Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2017 to the Registrant's definitive Proxy Statement for the Registrant's 2018 Annual Meeting of Shareholders filed on March 16, 2018; and
- (e) The description of the Registrant's Common Shares contained in the Registration Statement on Form 8-A filed on June 30, 2016, including any amendments or reports filed for the purpose of updating that description (File No. 001-33274).

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents.

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 other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any 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.

Subject to standards and restrictions as are set forth in the Registrant's Amended and Restated Limited Liability Company Agreement (the "LLC Agreement"), Section 18-108 of the Delaware Limited Liability Company Act empowers a Delaware limited liability company to indemnify and hold harmless any member or manager or other persons from and against any and all claims and demands whatsoever.

To the fullest extent permitted by law but subject to the limitations expressly provided in the LLC Agreement or in the bylaws of the Registrant, all current and former officers and directors of the Registrant or any subsidiary of the Registrant and other specified indemnitees (referred to herein collectively as the "Indemnitees") shall be indemnified and held harmless by the Registrant from and against any and all losses, claims, damages, liabilities, joint or several, expenses (including legal fees and expenses), judgments, fines, penalties, interest, settlements or other amounts arising from any and all claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, whether or not by or in the right of the Registrant, in which any such Indemnitee may be involved, or is threatened to be involved, as a party or otherwise, in connection with any act or omission performed, or omitted to be performed, by such Indemnitee in good faith on behalf of or with respect to the Registrant or by reason of its status as an Indemnitee; provided that the Indemnitee shall not be indemnified and held harmless if there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that, in respect of the matter for which the Indemnitee is seeking indemnification, the Indemnitee acted in bad faith or engaged in fraud, willful misconduct, or in the case of a criminal matter, acted with knowledge that the Indemnitee's conduct was unlawful. To the fullest extent permitted by law, expenses (including legal fees and expenses) incurred by an Indemnitee who is indemnified pursuant to the LLC Agreement in defending any claim, demand, action, suit or proceeding shall, from time to time, be advanced by the Registrant prior to a determination that the Indemnitee is not entitled to be indemnified upon receipt by the Registrant of any undertaking by or on behalf of the Indemnitee to repay such amount if it shall be determined that the Indemnitee is not entitled to be indemnified as authorized in the LLC Agreement. The indemnification, advancement of expenses and other provisions of the LLC Agreement shall be in addition to any other rights to which an Indemnitee may be entitled under any agreement, pursuant to any vote of the shareholders entitled to vote on such matter, pursuant to a vote of the board of directors of the Registrant, as a matter of law or otherwise, both as to actions in the Indemnitee's capacity as an Indemnitee and as to actions in any other capacity, and shall continue as to an Indemnitee who has ceased to serve in such capacity and shall inure to the benefit of the heirs, successors, assigns and administrators of the Indemnitee.

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The personal liability of each member of the Registrant's board of directors to the Registrant, its shareholders or any other person or entity bound by the LLC Agreement is eliminated for monetary damages for breach of fiduciary duty as a director; provided, however, that, the foregoing shall not eliminate the liability of a director (i) for any breach of such director's duty of loyalty to the Registrant or its shareholders as modified by the LLC Agreement, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law or (iii) for any transaction from which such director derived an improper personal benefit.

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The Registrant has entered into indemnification agreements with its directors and officers, which provide for the indemnification of such persons to the maximum extent permitted under Delaware law in the event such a person is involved or threatened to be involved, as a party or otherwise, in connection with any proceeding by reason of his or her status with or service to the Registrant or to another entity at the Registrant's request. The indemnification agreements also provide for advancement of expenses incurred by a director or officer in connection with an indemnifiable claim, subject to the Registrant's receipt of a written undertaking requiring reimbursement in certain circumstances. In addition, the indemnification agreements govern various procedural matters related to indemnification. The rights of a director and officer under an indemnification agreement with the Registrant are in addition to any other rights under the LLC Agreement and the Registrant's bylaws, as they may be amended from time to time, and Delaware law.

The Registrant has also previously entered into agreements with some former directors and officers which provide for the indemnification of such directors and officers.

The Registrant currently maintains an insurance policy on behalf of its directors and officers against any liability asserted against them or which they incur acting in such capacity or arising out of their status as directors or officers.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit Number	Description
4.1	Form of Common Share Certificate(1)
4.2	Composite copy of Amended and Restated Limited Liability Company Agreement of TravelCenters of America LLC dated as of January 31, 2007, as amended to date(2)
4.3	Amended and Restated Bylaws of TravelCenters of America LLC, as amended and restated on September 7, 2016(3)
5.1	Opinion of Skadden, Arps, Slate, Meagher & Flom LLP
23.1	Consent of RSM US LLP
23.2	Consent of Skadden, Arps, Slate, Meagher & Flom LLP (contained in the opinion filed as Exhibit 5.1 to this Registration Statement)
24.1	Power of Attorney (included on signature page herein)
99.1	TravelCenters of America LLC 2016 Equity Compensation Plan, as amended(4)

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- (1) Incorporated by reference to Exhibit 4.1 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2009, filed with the SEC on February 24, 2010.
- (2) Incorporated by reference to Exhibit 3.2 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2016, filed with the SEC on November 8, 2016.

(3) Incorporated by reference to Exhibit 3.3 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2016, filed with the SEC on February 28, 2017, as amended by Amendment No. 1 to the Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2016 filed with the SEC on May 17, 2017.

(4) Incorporated by reference to Annex A to the Registrant's definitive Proxy Statement for the Registrant's 2018 Annual Meeting of Shareholders filed with the SEC on March 16, 2018.

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 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 the 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 of 1933, 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 this 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 of 1933 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 Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 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 of 1933 and will be governed by the final adjudication of such issue.

EXHIBIT INDEX

TravelCenters of America LLC

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5.1	<u>Opinion of Skadden, Arps, Slate, Meagher & Flom LLP</u>
23.1	<u>Consent of RSM US LLP</u>
23.2	<u>Consent of Skadden, Arps, Slate, Meagher & Flom LLP (contained in the opinion filed as Exhibit 5.1 to this Registration Statement)</u>
24.1	<u>Power of Attorney (included on signature page herein)</u>
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(4) Incorporated by reference to Annex A to the Registrant's definitive Proxy Statement for the Registrant's 2018 Annual Meeting of Shareholders filed with the SEC on March 16, 2018.

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 Newton, Commonwealth of Massachusetts, on May 23, 2018.

TRAVELCENTERS OF AMERICA LLC

By: /s/ William E. Myers
William E. Myers
Executive Vice President,
Chief Financial Officer and Treasurer

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Andrew J. Rebholz, William E. Myers and Mark R. Young, and each of them, his or her true and lawful attorneys in fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments, including post-effective amendments, to this Registration Statement, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys in fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and conforming all that said attorneys in fact and agents, and each of them, or their respective substitutes, and each of them, may lawfully do or cause to be done by virtue hereof.

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

Date:	May 23, 2018	by: /s/ Andrew J. Rebholz Andrew J. Rebholz, Managing Director and Chief Executive Officer (Principal Executive Officer)
Date:	May 23, 2018	by: /s/ William E. Myers William E. Myers, Executive Vice President, Chief Financial Officer and Treasurer (Principal Financial Officer and Principal Accounting Officer)
Date:	May 23, 2018	by: /s/ Adam D. Portnoy Adam D. Portnoy, Managing Director
Date:	May 23, 2018	by: /s/ Barbara D. Gilmore Barbara D. Gilmore, Independent Director
Date:	May 23, 2018	by: /s/ Lisa Harris Jones Lisa Harris Jones, Independent Director
Date:	May 23, 2018	by: /s/ Joseph L. Morea Joseph L. Morea, Independent Director

