

WYNN RESORTS LTD
Form S-8
May 20, 2014

As filed with the Securities and Exchange Commission on May 20, 2014

Registration No. 333-

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

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

WYNN RESORTS, LIMITED
(Exact name of registrant as specified in its charter)

Nevada
(State or other jurisdiction of
incorporation or organization)

3131 Las Vegas Boulevard South

46-0484987
(I.R.S. Employer

Identification No.)

Las Vegas, Nevada 89109

(Address, including zip code, of principal executive offices)

2014 Omnibus Incentive Plan

(Full title of the plan)

Kim Sinatra

General Counsel and Secretary

Wynn Resorts, Limited

3131 Las Vegas Boulevard South

Las Vegas, Nevada 89109

(702) 770-7555

(Name and address of agent for service)

Copies to:

Ronald O. Mueller, Esq.

Gibson, Dunn & Crutcher LLP

1050 Connecticut Avenue N.W.

Washington, D.C. 20036

(202) 955-8500

(702) 770-7555

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

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 Securities Exchange Act of 1934, as amended.

Large accelerated filer

Non-accelerated filer

Accelerated filer

Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price Per Share (2)	Proposed Maximum Offering Price (2)	Proposed Maximum Aggregate Registration Fee (2)
Common Stock, \$0.01 par value	4,409,390 shares	\$198.72	\$876,233,980.80	\$112,858.94

per share

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the Securities Act), this Registration Statement shall also cover any additional shares of the Registrant's Common Stock in respect of the securities identified in the above table as a result of any stock dividend, stock split, recapitalization or other similar transaction.
- (2) Estimated solely for the purpose of calculating the registration fee. Pursuant to Rule 457(c) and Rule 457(h)(1) under the Securities Act, the proposed maximum offering price per share, the proposed maximum aggregate offering price and the amount of registration fee have been computed on the basis of the average of the high and low prices of the Common Stock reported on the NASDAQ Global Select Market on May 15, 2014.

INTRODUCTORY STATEMENT

This Registration Statement on Form S-8 is filed by Wynn Resorts, Limited, a Nevada corporation (the **Company** or the **Registrant**), relating to 4,409,390 shares of its common stock, par value \$0.01 per share (the **Common Stock**), to be issued pursuant to the Company's 2014 Omnibus Incentive Plan (the **Plan**). The Plan will replace the Company's (a) Amended and Restated Annual Performance-Based Incentive Plan for Executive Officers (the **Existing Annual Incentive Plan**), and (b) 2002 Stock Incentive Plan (the **Existing Stock Plan** and, together with the Existing Annual Incentive Plan, the **Existing Plans**). No new awards will be issued under the Existing Plans, provided that awards outstanding under the Existing Stock Plan will remain pursuant to the terms of the plan and related award agreements.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

In accordance with the Note to Part I of Form S-8, as promulgated by the Securities and Exchange Commission (the **Commission**), the information specified by Part I of Form S-8 has been omitted from this Registration Statement.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by the Company with the Commission pursuant to the Securities Exchange Act of 1934, as amended (the **Exchange Act**), are hereby incorporated by reference in this Registration Statement:

- (1) The Company's latest Annual Report pursuant to Sections 13(a) or 15(d) of the Exchange Act or latest prospectus filed pursuant to Rule 424(b) under the Securities Act that contains audited financial statements for the Registrant's latest fiscal year for which such statements have been filed;
- (2) All other reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the Registrant's latest Annual Report or prospectus referred to in (1) above; and
- (3) The description of the Company's Common Stock contained in the Registration Statement on Form 8-A filed on October 7, 2002 (File No. 000-50028), including any amendment or report filed for the purpose of updating the description of Common Stock contained therein.

In addition, all documents subsequently filed by the Company with the Commission pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered hereby have been sold or which deregisters all securities 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. Notwithstanding the foregoing, unless specifically stated to the contrary, none of the information that the Company discloses under Items 2.02 or 7.01 of any Current Report on Form 8-K that it may from time to time furnish to the Commission will be incorporated by reference into, or otherwise included in, this Registration Statement.

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Any statement, including financial statements, 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 or 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.

The Company's Exchange Act file number with the Commission is 000-50028.

Item 4. Description of Securities.

Not required.

Item 5. Interests of Named Experts and Counsel.

Kim Sinatra, General Counsel and Secretary of the Company, has rendered an opinion as to the validity of the Common Stock offered hereby. As of May 19, 2014, Ms. Sinatra owned 81,407 shares of Common Stock (including 25,000 shares of restricted stock) and held options to purchase 200,000 shares of Common Stock.

Item 6. Indemnification of Directors and Officers.

The Nevada Revised Statutes provide that a corporation may indemnify its officers and directors against expenses actually and reasonably incurred in the event an officer or director is made a party or threatened to be made a party to an action (other than an action brought by or in the right of the corporation as discussed below) by reason of his or her official position with the corporation provided the director or officer (1) is not liable for the breach of any fiduciary duties as a director or officer involving intentional misconduct, fraud or a knowing violation of the law or (2) acted in good faith and in a manner he or she reasonably believed to be in the best interests of the corporation and, with respect to any criminal actions, had no reasonable cause to believe his or her conduct was unlawful. A corporation may indemnify its officers and directors against expenses, including amounts paid in settlement, actually and reasonably incurred in the event an officer or director is made a party or threatened to be made a party to an action by or in the right of the corporation by reason of his or her official position with the corporation, provided the director or officer (1) is not liable for the breach of any fiduciary duties as a director or officer involving intentional misconduct, fraud or a knowing violation of the laws or (2) acted in good faith and in a manner he or she reasonably believed to be in the best interests of the corporation. The Nevada Revised Statutes further provides that a corporation generally may not indemnify an officer or director if it is determined by a court that such officer or director is liable to the corporation or responsible for any amounts paid to the corporation in settlement, unless a court also determines that the officer or director is fairly and reasonably entitled to indemnification in light of all of the relevant facts and circumstances. The Nevada Revised Statutes require a corporation to indemnify an officer or director to the extent he or she is successful on the merits or otherwise successfully defends the action.

The Company's bylaws provide that it will indemnify its directors and officers to the fullest extent permitted by Nevada law, including in circumstances in which indemnification otherwise would be discretionary under Nevada law as described above. In addition, the Company has entered into separate indemnification agreements with certain of its directors and officers that require the Company, among other things, to indemnify such directors and officers against certain liabilities that may arise by reason of their status or service. The Company also intends to maintain director and officer liability insurance, if available on reasonable terms.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

The following exhibits are filed as part of this Registration Statement:

Exhibit

No.	Description
4.1	Second Amended and Restated Articles of Incorporation of the Company dated September 16, 2002 (incorporated by reference to Exhibit 3.1 of the Company's Amendment No. 4 to the Form S-1 filed on October 7, 2002 (File No. 333-90600))
4.2	Sixth Amended and Restated Bylaws of the registrant (incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K filed by the registrant on September 12, 2013 (File No. 000-50028))
5.1	Opinion of Kim Sinatra, General Counsel and Secretary
10.1	2014 Omnibus Incentive Plan effective May 16, 2014
23.1	Consent of Ernst & Young LLP
23.2	Consent of Kim Sinatra (included in Exhibit 5.1)
24.1	Power of Attorney (contained on signature page hereto)

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;

(ii) to reflect in the prospectus any facts or events arising after the effective date of this 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 this 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 20 percent 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 this Registration Statement or any material change to such information in this

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 Exchange Act that are incorporated by reference in this Registration Statement.

- (2) That, for the purpose of determining any liability under the Securities Act, 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.
 - (4) That, for the purpose of determining liability of the Registrant under the Securities Act to any purchaser in the initial distribution of the securities: The undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to this Registration Statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser: (i) any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 424; (ii) any free writing prospectus relating to the offering prepared by or on behalf of the undersigned Registrant or used or referred to by the undersigned Registrant; (iii) the portion of any other free writing prospectus relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and (iv) any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser.
- (b) The undersigned Registrant hereby undertakes that, for the 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 Exchange Act 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 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 Las Vegas, state of Nevada, on this 20th day of May, 2014.

WYNN RESORTS, LIMITED

By: /s/ Stephen Cootey
 Stephen Cootey
 Chief Financial Officer and Treasurer

POWER OF ATTORNEY

Each person whose signature appears below constitutes and appoints Stephen A. Wynn, Kim Sinatra and Matt Maddox and each of them, his or her true and lawful attorneys-in-fact and agents, each with full power of substitution and resubstitution, severally, for him and in his 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 all 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 in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them or their or his substitute or substitutes, 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 below by the following persons in the capacities and on the date indicated.

Signature	Title	Date
/s/ Stephen A. Wynn Stephen A. Wynn	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	May 20, 2014
/s/ John Hagenbuch John Hagenbuch	Director	May 20, 2014
/s/ Ray R. Irani Dr. Ray R. Irani	Director	May 20, 2014
/s/ Robert J. Miller Robert J. Miller	Director	May 20, 2014
/s/ Alvin Shoemaker Alvin V. Shoemaker	Director	May 20, 2014
/s/ J. Edward Virtue	Director	May 20, 2014

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J. Edward Virtue

/s/ D. Boone Wayson
D. Boone Wayson

Director

May 20, 2014

/s/ Elaine P. Wynn
Elaine P. Wynn

Director

May 20, 2014

/s/ Stephen Cootey
Stephen Cootey

Chief Financial Officer and Treasurer
(Principal Financial and Accounting Officer)

May 20, 2014

EXHIBIT INDEX

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