

Edgar Filing: Seven Arts Pictures PLC - Form F-1/A

Seven Arts Pictures PLC
Form F-1/A
March 11, 2011

As filed with the Securities and Exchange Commission on March __, 2011

File No. 333-168118

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

Amendment No. 5
FORM F-1

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

SEVEN ARTS PICTURES PLC
(Exact name of registrant as specified in its charter)

England (State or other jurisdiction of incorporation or organization)	7812 (Primary Standard Industrial Classification Code Number)	[Not Applicable] (I.R.S. Employer Identification No.)
--	---	---

38 Hertford Street
London W1J 7SG
Telephone: +44 (203) 006 8222
Facsimile: +44 (203) 006 8220

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

Sprecher Grier Halberstam LLP
Attention: John Bottomley
One America Square, Crosswall
London, EC3N 2SG
Telephone: + 44 (207) 264 4444
Facsimile: +44 (207) 264 4440

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

Copies to:	
Attention: Peter M. Hoffman 1801 Century Park East, Suite 1801 Los Angeles, CA 90067 Telephone: 323.372.3080	Randolf Katz Baker & Hostetler LLP 600 Anton Boulevard Suite 900 Costa Mesa, CA 92626

Edgar Filing: Seven Arts Pictures PLC - Form F-1/A

Facsimile:
323.372.3088

Telephone:
714.966.8807
Facsimile:
714.966.8802

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act, 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(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 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.

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to Be Registered	Amount to be Registered	Proposed Maximum Offering Price per Share(1)	Proposed Maximum Aggregate Offering Price(1)	Amount of Registration Fee (3)
Ordinary Shares	4,600,000 (2)	U.S.\$01.00	\$4,600,000	US []
Underwriter Warrants		--	--	--
Shares Underlying the Underwriters Warrants	150,000	U.S.\$1.25	\$375,000	US[]
Total	4,750,000		U.S.\$4,975,000	U.S.\$668.50

(1) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457 under the Securities Act.

(2) Includes 600 ,000 ordinary shares related to the over-allotment option granted to the underwriters' representative. Pursuant to Rule 416, there are also being registered such indeterminable number of additional ordinary shares as may be issued under the warrants to the underwriters' representative to prevent dilution resulting from stock splits, stock dividends or similar transactions.

(3) In accordance with Rule 457(p), \$1,037.48 of the currently due registration fee has been offset by registration fees previously paid with respect to unsold shares under prior registration statements filed -by the Registrant, including a Registration Statement on Form F-1 (No. 333-158562) filed on April 14, 2009 and a Registration Statement on Form F-1 (No. 333-158669) filed on April 24, 2009.

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 this registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

The information in this prospectus is not complete and may be changed. A registration statement relating to these securities has been filed with the Securities and Exchange Commission. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state or other jurisdiction where the offer or sale is not permitted.

Subject to completion, dated March __, 2011.

SEVEN ARTS PICTURES PLC

This is a firm commitment public offering of 4,000,000 shares of ordinary shares. We have granted [--], the underwriters' representative, an option to purchase up to 600,000 additional ordinary shares to cover over-allotments. We have also granted the underwriters' representative warrants to purchase up to [---] of our ordinary shares.

Our ordinary shares are quoted on the NASDAQ Capital Market under the symbol "SAPX." On March [_], 2011, the last reported market price of our ordinary shares was _____ per share.

	Public offering price	Underwriting discount and commissions (1)	Proceeds to us, before expenses (2)
Per Share	\$	\$	\$
Total	\$	\$	\$-

(1) Does not include a non-accountable expense allowance equal to 1% of the gross proceeds of this offering payable to [--], the underwriters' representative.

(2) We estimate that the total expenses of this offering, excluding the underwriters' discount and non-accountable expense allowance, will be approximately \$175,000.

The shares issuable upon exercise of the underwriter over-allotment option and the warrants are identical to those offered to the public by this prospectus and have been registered under the registration statement of which this prospectus forms a part.

Investing in our securities involves certain risks. See "Risk Factors" beginning on page 7 of this prospectus for a discussion of information that should be considered in connection with an investment in our securities.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The underwriters expect to deliver our shares to purchasers in the offering on or about March [_], 2011.

[--]

The date of this prospectus is March [], 2011

TABLE OF CONTENTS

Prospectus Summary	1
Risk Factors	7
Special Note Regarding Forward-Looking Statements	23
Use of Proceeds	24
Capitalization	25
Dilution	30
Selected Historical Financial Information	27
Management's Discussion and Analysis of Financial Condition and Results of Operations	29
Description of Business	51
Management Principal Shareholders	76
Certain Related Transactions	77
Market For Common Equity and Related Shareholder Matters	81
Description of Securities	84
Underwriting and Plan of Distribution	86
Experts	94
Legal Matters	94
Disclosure of Commission Position on Indemnification for Securities Act Liabilities	94
Where You Can Find Additional Information	95
Index to Financial Statements	F-1

You should rely only on the information contained or incorporated by reference to this prospectus in deciding whether to purchase our shares. We have not authorized anyone to provide you with information different from that contained in or incorporated by reference into this prospectus. Under no circumstances should the delivery to you of this prospectus or any sale made pursuant to this prospectus create any implication that the information contained in this prospectus is correct as of any time after the date of this prospectus. To the extent that any facts or events arising after the date of this prospectus, individually or in the aggregate, represent a fundamental change in the information presented in this prospectus, this prospectus will be updated to the extent required by law.

We obtained statistical data, market data and other industry data and forecasts used throughout this prospectus from market research, publicly available information and industry publications. Industry publications generally state that they obtain their information from sources that they believe to be reliable, but they do not guarantee the accuracy and completeness of the information. Nevertheless, we are responsible for the accuracy and completeness of the historical information presented in this prospectus, as of the date of the prospectus.

PROSPECTUS SUMMARY

This summary highlights selected information from this prospectus but may not contain all of the information that may be important to you. Accordingly, we encourage you to read carefully this entire prospectus. In this prospectus, the words “Seven Arts”, “Company”, “we”, “our”, “ours” and “us” refer to Seven Arts Pictures PLC and its subsidiaries, unless otherwise stated or the context otherwise requires. All references in this prospectus to the number of ordinary shares to be issued by us in the offering exclude any ordinary shares acquired by underwriters pursuant to their over-allotment option or underwriters’ warrants included elsewhere in this prospectus. The financial statements and all other financial data included herein are presented in U.S. dollars (\$). In this prospectus the word “Group” refers to Seven Arts Pictures Plc and its subsidiaries listed in Corporate Organization in this section.

Our Company

We are an independent motion picture production company engaged in developing, financing, producing and licensing theatrical motion pictures with budgets in the range of \$2 million to \$15 million for exhibition in domestic (i.e., the United States and Canada) and foreign theatrical markets and for subsequent post-theatrical worldwide release in other forms of media, including DVD, home video, pay-per-view, and free television. We endeavor to release many of our motion pictures into wide-theatrical exhibition initially; however, certain of our motion pictures will either receive only a limited theatrical release, or may even be released directly to post theatrical markets, primarily DVD. Those pictures that receive either a limited theatrical release or a post theatrical release typically benefit from lower prints and advertising (“P & A”) costs and, in turn, may enjoy greater gross profit margins.

Our recent domestic theatrical releases include Deal (April 2008), Noise (May 2008) and Autopsy (January 2009) and Night of the Demons (October 2010), all of which received limited US theatrical releases. We have completed the production of and expect to release for domestic theatrical exhibition two additional motion pictures in the summer of 2011, notably The Pool Boys and Nine Miles Down. We currently have six motion pictures in development that we anticipate will be released within the next two to three years (i.e., 2011 – 2013) Catwalk, Waxwork, Mortal Armor: The Legend of Galahad, Romeo Spy, The Winter Queen and Neuromancer. We may supplement these motion pictures releases with certain lower cost pictures not yet fully developed, as well as with selected third party acquisitions.

We currently control copyright interests directly or through affiliates for 21 completed motion pictures. An additional twelve motion pictures for which we own distribution rights are now controlled by Arrowhead Target Fund Ltd., a former hedge fund investor, which receives all of the revenues from these pictures until recoupment of current indebtedness. A substantial portion of our library revenues are derived from only a few of our library titles. Through a combination of new productions and selected acquisitions, we plan to increase our film library to 50 to 75 pictures over the next five years, but there can be no assurance or guarantee that we will be able to do so.

Our recent business model has focused on distribution in the post-theatrical markets for lower-cost, "genre" motion pictures. These pictures have enjoyed only a very limited theatrical release. While we expect to continue to make such pictures, our goal is to obtain a wider theatrical release for the majority of the pictures we intend to release over the next two to three years.

We recorded total revenues of \$6,417,000 and a net loss of \$476,000 during our fiscal year ended June 31, 2010 compared to total revenues of \$10,232,000 and a profit after taxes of \$4,737,000 in the fiscal year ended June 30, 2009.

As is described in "Use of Proceeds", a significant portion of our proceeds from this offering will be used to pay indebtedness owed by affiliated parties, as well as by us.

As of July 1, 2010, the Group agreed in an Asset Transfer Agreement of that date to transfer the assets of Seven Arts Pictures Plc. ("PLC") (including ownership of all subsidiaries) to Seven Arts Entertainment Inc. ("SAE"), a newly formed Nevada corporation (which became a wholly owned subsidiary of the Group effective January 27, 2011), in exchange for assumption by SAE of certain indebtedness and for one share of common stock of SAE for each ordinary share of PLC to be distributed subject to a future Registration Statement to be filed by the Group. This transfer was agreed to by shareholders at an Extraordinary General Meeting on June 11, 2010. The purpose of this transfer was to eliminate the Group's status as a foreign private issuer which Management hopes to be effective as of April 30, 2011 and to assume compliance with all obligations of a domestic issuer under all applicable state and Federal securities laws. The Group's intention is to redomesticate our business with no change in the economic interests of shareholders.

Our Business Strategy

Our current business strategy is:

- To finance, produce and distribute two to four motion pictures in-house per year with budgets between \$2 million and \$15 million each. As previously stated, we expect that certain of these pictures will receive only a limited theatrical release, while others will be released more widely.
- To supplement our core strategy by producing an occasional higher cost motion picture (production budgets of \$30 - \$50 million). We will, in all likelihood seek to co-produce such projects with a major studio to guarantee a studio-wide release and obtain a commitment to cover a portion or all of P&A costs.
- To opportunistically acquire distribution rights to an additional two to five motion pictures produced by others, each year, for distribution in theatrical, video and television markets, as an agent, for a 15%-20% fee.
- To maximize our current use of tax-preferred financing structures around the world to fund our motion picture productions.

- To continue to reduce our financial risk on motion pictures we produce by licensing certain rights to distributors prior to and during production, although we recognize that, particularly in the last two years, the licensing market has become more difficult to access as a film financing device.
- To enter into partnerships with theatrical and video distributors, to gain more control over and increase our share of revenue from the distribution of our motion pictures.
- To scale our business over time by modestly increasing the number of pictures we develop and produce in-house as well as by more aggressively seeking to acquire for distribution motion pictures produced by third parties.

We believe that this is a particularly opportune time to be producing and distributing moderately priced motion pictures as, according to their public announcements, the major studios plan to reduce the number of pictures that they finance and distribute, to concentrate instead resources on a limited number of high-priced, “franchise” productions. In addition, we believe that certain of the most successful independent motion picture companies have either been acquired or are focusing on higher budget films. We believe that these factors will make available exceptional levels of both talent and projects for lower budget motion pictures and independent film companies such as Seven Arts.

We do not yet have firm commitment for the financing and production of the six motion picture projects described above in Our Company. We have no assurance that we will be able to finance production of these motion pictures but expect to do so within the next 18 months. We are currently negotiating financing and distribution arrangements for each project but none are complete.

Our Competitive Strength

We believe our competitive strengths are:

- The experience of our management and our relationships with independent motion picture distributors.
- Our relationships with “key talent” and with independent motion picture distributors around the world.
- Our expertise in structuring tax-preferred financings in jurisdictions where such are made available. “Tax preferred financings” include refundable or transferable income tax credits available by statute in territories including Louisiana, the United Kingdom, Canada and Hungary, as well as other general tax benefits associated with motion pictures production or distribution in these nations or states.

Potential Conflicts of Interest

Our Chief Executive Officer, Peter Hoffman, controls several companies that are not part of the Group but from which we obtain or transfer distribution rights or other assets related to our business and which control production of our motion pictures. Our agreements with Mr. Hoffman and the companies controlled by him provide that all revenues related to our business payable to Mr. Hoffman or any of these companies is due to us, except Mr. Hoffman’s salary, bonus and stock ownership as described herein. See Risk Factors – Relating to Our Business and Certain Related Transactions. Our interests may conflict with those of our Chief Executive Officer in that our satisfaction of certain indebtedness may release Mr. Hoffman’s guarantee and pledge of stock to indebtedness, payment of general operating expenses and production costs of motion pictures controlled by us may reduce Mr. Hoffman’s affiliates’ liability for these expenses.

Potential Benefits To Affiliates

Certain of our affiliates, controlled by Mr. Hoffman are entitled to be reimbursed by us for general overhead incurred by each to conduct business for us in amounts approved by us and then to be reimbursed for certain third party costs on motion pictures controlled by us and to be indemnified for loss costs or damages arising from the conduct of business on our behalf if approved by us. We anticipate upon completion of our re-domicile in Nevada, such reimbursement will terminate.

In addition, we license distribution rights to pictures controlled by us to our affiliate, Seven Arts Pictures Louisiana LLC ("SAPLA") which performs distribution services for our motion pictures. All fees payable to SAPLA are subject to the agreements with Mr. Hoffman and his affiliates described above. See Risk Factors- Relating to Our Business and Certain Related Transaction. Finally upon commencement of business of our production and post-production facility in New Orleans, Louisiana, SAPLA and an affiliate, Seven Arts Filmed Entertainment Louisiana LLC ("SAFE LA") will be the lessee of those facilities and under the Inter-Group Agreement all profits of SAFE LA if any will be returned to us under the agreements with Mr. Hoffman and his affiliates. See Certain Related Transactions for further detail and discussion of all transactions with affiliates.

We have and exercise the right to control through our management all material decisions of all affiliates controlled by Mr. Hoffman to the extent such decisions have any material effect on our business or our results of operations.

Corporate Information

Seven Arts is a corporation organized under the laws of England and Wales. Our principal executive offices are located at 38 Hertford Street, London, UK W1J 7SG. Our telephone number is 44 (203) 006 8222. The US offices of our affiliate (Seven Arts Pictures Inc.) are located at 6121 Sunset Blvd., Suite 512, Los Angeles, CA 90028. Our US telephone number is (323) 634 0990.

Loan Agreements

As set forth below in “Management’s Description and Analysis of Financial Conditions and Benefits of Operations – Liquidity and Capital Resources”, the Company has negotiated arrangements with the following lenders for the following approximate amounts to extend the due date for payment:

Lender	Amount
Palm Finance Corp	\$ 10,500,000
Trafalgar Capital Special Investment Fund	\$ 650,000
Blue Rider Financial Llp	\$ 1,350,000

Corporate Organization

The following is the corporate organization chart of Seven Arts and its subsidiaries as of March 2 , 2011:

THE OFFERING

Securities Offered 4,000,000 shares of ordinary shares, (or 4,600,000 if the underwriters' representative exercises its over-allotment option in full)

Ordinary Shares

Number of ordinary shares outstanding before this offering 10,589,100 ordinary shares

Number of ordinary shares outstanding after this offering(1) 11,381,640 ordinary shares

Use of Proceeds We intend to use the net proceeds of this offering to repay all, or a portion of, indebtedness owed by affiliated parties of approximately \$2,150,000. The remaining net proceeds will be used for working capital and general corporate purposes.

NASDAQ Capital Market SAPX

Lock-Up Agreements All of our officers and directors have agreed that, for a period of six months following completion of this offering, they will be subject to a lock-up agreement prohibiting any sales or hedging transactions of our securities owned by them. See "Lock-Up" on page 88.

Risk Factors The securities offered by this prospectus are speculative and involve a high degree of risk, and investors purchasing securities should not purchase the securities unless they can afford the loss of their entire investment. See "Risk Factors" beginning on page 7.

(1) Excludes 2,033,000 shares of common stock to be returned to us in connection with the repayment of loans from the proceeds of this offering. See "Use of Proceeds." Also excludes any shares of common stock to be issued if the underwriter representative exercises its over-allotment option in full.

SUMMARY CONSOLIDATED FINANCIAL INFORMATION

The following sets forth a summary of consolidated profit and loss and balance sheet statements for the fiscal years ended June 30, 2010, June 30, 2009 and March 31, 2008 and for the three month period ended June 30, 2008, prepared under International Financial Reporting Standards (“IFRS”). All of the foregoing have been derived from our audited consolidated financial statements and related notes included elsewhere in this prospectus. In 2008, we adopted a fiscal year-end of June 30, and in 2009 we elected to report under IFRS. The summary consolidated historical financial and operating information should be read in conjunction with “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and the consolidated financial statements and the related notes thereto and the other financial information included elsewhere in this prospectus.

The historical results included below and elsewhere in this prospectus are not indicative of our future performance.

Summary Financial Data
(in \$ 000’s, except per share data)

	Fiscal Year Ended June 30, 2010	Fiscal Year Ended June 30, 2009	FiscalYear Ended March 31, 2008	ThreeMonths Ended June 30, 2008
Summary Profit and Loss Statements (1)				