

Edgar Filing: NL INDUSTRIES INC - Form 8-K

NL INDUSTRIES INC
Form 8-K
October 08, 2004

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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 OR 15(d) of the Securities
Exchange Act of 1934

Date of Report (Date of the earliest event reported)
October 5, 2004

NL Industries, Inc.

(Exact name of Registrant as specified in its charter)

| | | |
|--|-----------------------------|---|
| New Jersey | 1-640 | 13-5267260 |
| ----- | ----- | ----- |
| (State or other jurisdiction of incorporation) | (Commission File Number) | (IRS Employer Identification No.) |
| 5430 LBJ Freeway, Suite 1700, Dallas, Texas | | 75240-2697 |
| ----- | ----- | ----- |
| (Address of principal executive offices) | | (Zip Code) |

Registrant's telephone number, including area code
(972) 233-1700

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 8.01 Other Events.

Pursuant to a Subscription Agreement (the "Subscription Agreement") executed on October 5, 2004 but effective as of October 1, 2004, among NL Industries, Inc., a New Jersey corporation ("NL"), TIMET Finance Management Company, a Delaware corporation ("TFMC"), and CompX Group, Inc., a newly formed

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Delaware corporation ("CGI"), NL and TFMC initially capitalized CGI by each contributing to CGI effective October 1, 2004 the following shares (the "CompX Shares") of either class A or class B common stock, par value \$0.01 per share, of CompX International Inc., a Delaware corporation ("CompX"), and receiving in return for such initial capitalization of CGI the following shares of the common stock, par value \$0.01 per share of CGI (the "CGI Shares").

| CGI Stockholder ----- | Shares of CompX Class A Common Stock Contributed to CGI ----- | Shares of CompX Class B Common Stock Contributed to CGI ----- | CGI Shares Issued to such CGI Stockholder in Exchange for the CompX Shares Contributed ----- |
|-----------------------------|---|---|---|
| NL..... | 374,000 | 10,000,000 | 10,374.00 |
| TFMC..... | 2,212,820 | 0 | 2,212.82 |

As a result of the initial contribution, NL and TFMC became the sole CGI stockholders and record holders of 82.4% and 17.6% of the outstanding common stock of CGI, respectively.

Pursuant to the Subscription Agreement, CGI agreed that it would not sell any of the CompX Shares contributed to CGI by TFMC (as such number of CompX Shares may be adjusted from time to time pursuant to stock splits of, stock dividends on, or recapitalizations of, such CompX Shares) pursuant to the Subscription Agreement without the express written consent of TFMC. In addition, in accordance with the Subscription Agreement, the parties entered into a Voting Agreement executed on October 5, 2004 but effective as of October 1, 2004 (the "Voting Agreement").

The terms of the Voting Agreement provide that:

- (1) NL will vote all of its CGI Shares to elect as a director of CGI one person designated in writing by TFMC;
- (2) The initial person designated by TFMC to be elected a director of CGI would be J. Landis Martin; and
- (3) The CGI board of directors would be comprised of five persons and each CGI stockholder would take or cause to be taken all action to:
 - (i) require that the certificate of incorporation and bylaws of CGI provides for a board of directors of five persons; and
 - (ii) ensure at all times that the certificate of incorporation and bylaws of CGI would not at any time be inconsistent with the provisions of the Voting Agreement.

Pursuant to CGI's certificate of incorporation (the "Certificate of Incorporation"), upon the written request of a CGI stockholder, CGI is obligated to redeem such number of the stockholder's shares of CGI common stock that the stockholder requests. The CGI stockholder is also entitled to elect to receive as part of the redemption price such number of shares of the CompX class A or class B common stock, the stockholder or its predecessor holders or assigns contributed to CGI that is equal to the product of 1,000 (equitably adjusted for any applicable stock splits of, stock dividends on, or recapitalizations of, CompX common stock) and the number of shares to be redeemed. CGI's board of

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directors is then obligated to determine in good faith and in its best business judgment the redemption price. Pursuant to the Certificate of Incorporation, in determining the redemption price, the board of directors shall value each share of CompX common stock held by CGI (both the CompX class A and class B shares of common stock) at the volume weighted average sales price of a share of CompX class A common stock as reported on the New York Stock Exchange composite transactions reporting system for the ten trading days ending on the day CGI receives the redemption request.

With the initial capitalization of CGI, NL and CompX became eligible to file consolidated returns of federal income taxes with Contran Corporation, a Delaware corporation and the parent of NL and CompX ("Contran"). Concurrently with the initial capitalization of CGI, CompX, NL and Contran entered into a Tax Agreement executed on October 5, 2004 but effective as of October 1, 2004 (the "Tax Agreement"). The Tax Agreement provides that NL and its qualifying subsidiaries, including CompX, compute provisions for U.S. income taxes on a separate-company basis using the tax elections made by Contran. Pursuant to the Tax Sharing Agreement and using the tax elections made by Contran, CompX will make payments to, or receive payments from NL, in amounts it would have paid to or received from the U.S. Internal Revenue Service had it not been a member of NL's consolidated tax group but instead was a separate taxpayer. Refunds to CompX are generally limited to amounts previously paid under the Tax Sharing Agreement.

The descriptions of the Subscription Agreement, the Voting Agreement, the Certificate of Incorporation and the Tax Agreement in this report are qualified in their entirety by the terms of the actual documents filed as Exhibits 99.1 through 99.4 to this report and incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(c) Exhibits.

| Item No. | Exhibit Index |
|----------|---|
| 99.1 | Subscription Agreement executed on October 5, 2004 but effective as of October 1, 2004 among NL Industries, Inc., TIMET Finance Management Company and CompX Group, Inc. Not all of the exhibits to this Exhibit 99.1 have been filed; upon request, the registrant will furnish supplementally to the Securities and Exchange Commission a copy of the omitted exhibits. |
| 99.2 | Voting Agreement executed on October 5, 2004 but effective as of October 1, 2004 among NL Industries, Inc., TIMET Finance Management Company and CompX Group, Inc. |
| 99.3 | Certificate of Incorporation of CompX Group, Inc. |
| 99.4 | Tax Agreement executed on October 5, 2004 but effective as of October 1, 2004 among NL Industries, Inc., Contran Corporation and CompX International Inc. |

SIGNATURE

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Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

NL Industries, Inc.
(Registrant)

By: /s/ Gregory M. Swalwell

Gregory M. Swalwell
Vice President, Finance and
Chief Financial Officer

Date: October 8, 2004

INDEX TO EXHIBITS

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|-------------|---|
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