

**SYPRIS SOLUTIONS INC**

Form S-8

May 19, 2015

**As filed with the Securities and Exchange Commission on May 19, 2015**

**Registration No. 333-**

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**WASHINGTON, D.C. 20549**

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**FORM S-8**

**REGISTRATION STATEMENT**

**UNDER THE SECURITIES ACT OF 1933**

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**Sypris Solutions, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of

incorporation or organization)

**61-1321992**

(I.R.S. Employer Identification Number)

**101 Bullitt Lane, Suite 450**

**Louisville, Kentucky 40222**

**(502) 329-2000**

(Address, including zip code, and telephone number,

including area code, of registrant's principal executive offices)

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**Sypris Solutions, Inc.**

**2015 Sypris Omnibus Plan**

(Full title of the Plan)

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**Jeffrey T. Gill**

**President and Chief Executive Officer**

**Sypris Solutions, Inc.**

**101 Bullitt Lane, Suite 450**

**Louisville, Kentucky 40222**

**(502) 329-2000**

(Name, address and telephone number of agent for service)

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*Copies to:*

**John B. Beckman**

**Hogan Lovells US LLP**

**555 Thirteenth Street, N.W.**

**Washington, D.C. 20004**

**(202) 637-5600**



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 definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

#### CALCULATION OF REGISTRATION FEE

<b>Title of securities to be registered</b>	<b>Amount to be Registered (1)</b>	<b>Proposed maximum offering price per unit (2)</b>	<b>Proposed maximum aggregate offering price (2)</b>	<b>Amount of registration fee</b>
Common Stock, par value \$0.01 per share	3,476,021 shares	\$1.46	\$5,074,990.66	\$ 589.71

Pursuant to Rule 416(a) of the Securities Act of 1933, this Registration Statement also covers an indeterminate (1) number of shares that may become issuable under the plan as a result of a stock split, stock dividend or similar adjustment of the outstanding Common Stock.

Calculated pursuant to Rule 457(c) and (h) under the Securities Act of 1933 on the basis of \$1.46 per share, which (2) was the average of the high and low selling prices of the Registrant’s Common Stock as reported on the NASDAQ Stock Market on May 18, 2015.

## **PART I**

As permitted by the rules of the Securities and Exchange Commission (the “Commission”), this Registration Statement omits the information specified in Part I of Form S-8. The documents containing the information specified in Part I will be delivered to the participants in the plan as required by Rule 428(b)(1) under the Securities Act of 1933, as amended (the “Securities Act”). Such documents are not being filed with the Commission as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424. These documents and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II hereof, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

## **PART II**

### **INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

#### **Item 3. Incorporation of Documents by Reference**

Sypris Solutions, Inc. (the “Company”) hereby incorporates by reference into this Registration Statement the following documents:

- (a) The Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2014;
- (b) The Company’s Current Reports on Form 8-K filed January 7, February 17, March 6, March 18 and May 7, 2015 (except that any portions which are furnished and not filed shall not be deemed incorporated);
- (c) The Company’s Quarterly Report on Form 10-Q for the quarterly period ended April 5, 2015; and
- (d) The description of the Company’s common stock, \$.01 par value (the “Common Stock”), which is contained in the Company’s current report on Form 8-K/A filed May 13, 1998, pursuant to Section 13 of the 1934 Act (Commission

File No. 000-24020), including any amendment or report filed for the purpose of updating such description.

All documents subsequently filed by the Company pursuant to Sections 13(a), 13(c), 14 and 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 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 (other than any documents, or portions of documents, not deemed to be filed).

#### **Item 4. Description of Securities**

Not applicable.

#### **Item 5. Interests of Named Experts and Counsel**

Not applicable.

#### **Item 6. Indemnification of Directors and Officers**

Section 145 of the Delaware General Corporation Law provides that under certain circumstances a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation or is or was serving at its request in such capacity in another corporation or business association, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.



Article Ninth of the Company's Certificate of Incorporation provides:

“A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit. If the Delaware General Corporation Law is amended after the filing of the Certificate of Incorporation of which this Article is a part to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended. Any repeal or modification of the foregoing paragraph by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.”

Article Eleventh, Section A of the Company's Certificate of Incorporation provides:

“The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person who was or is made or is threatened to be made a party, or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a “proceeding”), by reason of the fact that he, or a person for whom he is the legal representative, is or was a director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another Corporation or of a partnership, joint venture, trust, enterprise or non-profit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses reasonably incurred by such person. The Corporation shall be required to indemnify a person in connection with a proceeding initiated by such person only if the proceeding was authorized by the Board of Directors of the Corporation.

Article Eleventh, Section B of the Company's Certificate of Incorporation provides:

“The Corporation shall pay the expenses of directors and executive officers of the Corporation, and may pay the expenses of all other officers, employees or agents of the Corporation, incurred in defending any proceeding, in advance of its final disposition, provided, however, that the payment of expenses incurred by a director, officer, employee or agent in advance of the final disposition of the proceeding shall be made only upon receipt of an undertaking by the director, officer, employee or agent to repay all amounts advanced if it should be ultimately determined that the director, officer, employee or agent is not entitled to be indemnified under this Article ELEVENTH or otherwise.”



Article Eleventh, Section F of the Company's Certificate of Incorporation provides:

“Any repeal or modification of the foregoing provisions of this Article ELEVENTH shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification.”

While the Company has executed no formal written indemnification agreements with its directors or officers, the Company has arranged for and does maintain directors' and officers' liability insurance covering certain liabilities which may be incurred by its directors and officers in the performance of their duties.

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**Item 7. Exemption from Registration Claimed**

Not Applicable.

**Item 8. Exhibits**

The exhibits to this Registration Statement are listed on the Exhibit Index, which appears elsewhere herein and is incorporated by reference.

**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 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 a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement;

(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) of this section do not apply if the registration statement is on Form S-8, and 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 herein, 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 further undertakes that, for the 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 the registration statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

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(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.

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## **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 Louisville, State of Kentucky, on 19th of May, 2015.

### **Sypris Solutions, Inc.**

(Registrant)

By: /s/ Jeffrey T. Gill

Jeffrey T. Gill

President and Chief Executive Officer

## **POWER OF ATTORNEY**

Each person whose signature appears below constitutes and appoints Jeffrey T. Gill, Anthony C. Allen and John R. McGeeney his or her true and lawful attorney-in-fact and agent, each acting alone, 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 or all amendments (including post-effective amendments) to the Registration Statement on Form S-8, and to file the same, with all exhibits thereto, and all documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent, 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 or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his or her 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 as of 19<sup>th</sup> May, 2015 by the following persons in the capacities indicated.

<b>Signature</b>	<b>Title</b>
/s/ Robert E. Gill Robert E. Gill	Chairman of the Board
/s/ Jeffrey T. Gill Jeffrey T. Gill	President, Chief Executive Officer, and Director (Principal Executive Officer)
/s/ Anthony C. Allen Anthony C. Allen	Vice President and Chief Financial Officer (Principal Financial Officer)
/s/ Rebecca R. Eckert Rebecca R. Eckert	Controller (Principal Accounting Officer)
/s/ John F. Brinkley John F. Brinkley	Director
/s/ Gary L. Convis Gary L. Convis	Director
/s/ William G. Ferko William G. Ferko	Director
/s/ R. Scott Gill R. Scott Gill	Director
/s/ William L. Healey William L. Healey	Director
/s/ Robert F. Lentz Robert F. Lentz	Director
/s/ Sidney R. Petersen Sidney R. Petersen	Director
/s/ Robert Sroka Robert Sroka	Director





**EXHIBIT INDEX**

**Exhibit No.   Description**

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| 5.1  | Opinion of Hogan Lovells US LLP regarding the legality of the common stock registered hereby.* |
| 10.1 | The 2015 Sypris Omnibus Plan.*   |
| 23.1 | Consent of Hogan Lovells US LLP (included in Exhibit 5.1).*                                    |
| 23.2 | Consent of Crowe Horwath LLP, independent registered public accountants.*                      |
| 24.1 | Power of Attorney (included in the signature page to this Registration Statement).             |

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\* Filed herewith.