

MIDDLEBY CORP  
Form S-4/A  
November 21, 2008

As filed with the Securities and Exchange Commission on November 21, 2008  
Registration Statement No. 333-153386

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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

Amendment No. 2 to  
FORM S-4  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

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THE MIDDLEBY CORPORATION  
(Exact name of registrant as specified in its charter)

Delaware	3580	36-3352497
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

1400 Toastmaster Drive  
Elgin, Illinois 60120  
(847) 741-3300  
(Address, including zip code, and telephone number,  
including area code, of registrant's principal executive offices)

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Timothy J. FitzGerald  
Vice President and Chief Financial Officer  
1400 Toastmaster Drive  
Elgin, Illinois 60120  
(847)741-3300  
(Name, address, including zip code, and telephone number,  
including area code, of agent for service)

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Shilpi Gupta, Esq. Skadden, Arps, Slate, Meagher & Flom LLP 333 West Wacker Drive Chicago, Illinois 60606 (312)407-0700	Copies to: Reinaldo Pascual, Esq. Paul, Hastings, Janofsky & Walker LLP 600 Peachtree Street, N.E., Suite 2400 Atlanta, Georgia 30308-2222 (404) 815-2400
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Approximate date of commencement of proposed sale to the public: As soon as practicable after the effectiveness of

this registration statement and the satisfaction or waiver of all other conditions under the merger agreement described herein.

If the securities being registered on this form are to be offered in connection with the formation of a holding company and there is compliance with General Instruction G, 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(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.

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 Exchange Act.

Large accelerated filer

Accelerated filer

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

Smaller reporting company

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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 that specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

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The information in this proxy statement/prospectus is not complete and may be changed. Middleby may not sell these securities until the registration statement filed with the Securities and Exchange Commission, of which this document is a part, is declared effective. This proxy statement/prospectus is not an offer to sell these securities and neither TurboChef nor Middleby is soliciting an offer to buy these securities in any jurisdiction where the offer, solicitation or sale is not permitted.

PRELIMINARY—SUBJECT TO COMPLETION—DATED NOVEMBER 21, 2008

TURBOCHEF TECHNOLOGIES, INC.  
SIX CONCOURSE PARKWAY  
SUITE 1900  
ATLANTA, GA 30328

PROPOSED MERGER—YOUR VOTE IS VERY IMPORTANT

The board of directors of TurboChef Technologies, Inc. (“TurboChef”) has unanimously approved an agreement and plan of merger, dated August 12, 2008 as amended by amendment dated November 21, 2008, which we refer to as the merger agreement, pursuant to which TurboChef will merge with and into a wholly-owned subsidiary of The Middleby Corporation (“Middleby”), with the subsidiary continuing as the surviving entity. If the merger is completed, TurboChef stockholders will receive 0.0486 of a share of Middleby common stock and \$3.67 in cash for each share of TurboChef common stock. The exchange ratio for shares of Middleby common stock to be received by TurboChef stockholders is fixed and will not be adjusted to reflect stock price changes prior to the closing.

The shares of Middleby common stock are listed on the NASDAQ Global Select Market under the symbol “MIDD.” Based on the closing sale price for Middleby common stock on August 11, 2008, the last trading day before public announcement of the merger, the 0.0486 of a share of Middleby common stock and \$3.67 in cash represented approximately \$6.47 in value for each share of TurboChef common stock. The value of the merger consideration to be received in exchange for each share of TurboChef common stock will fluctuate with the market price of Middleby common stock. Based on the closing sale price for Middleby common stock on \_\_\_\_\_, 2008, the latest practicable trading date before the printing of this proxy statement/prospectus, the 0.0486 of a share of Middleby common stock and \$3.67 in cash represented approximately \$ \_\_\_\_\_ in value for each share of TurboChef common stock. Based on the number of shares of TurboChef common stock outstanding as of \_\_\_\_\_, 2008, the aggregate number of shares of Middleby common stock to be issued by Middleby in the merger is estimated to be \_\_\_\_\_ shares.

Your vote is very important, regardless of the number of shares you own. The merger cannot be completed unless holders of a majority of the outstanding shares of TurboChef common stock as of the record date vote in favor of the proposal to adopt the merger agreement. TurboChef is holding a special meeting of its stockholders to vote on the proposal to adopt the merger agreement. Information about the TurboChef special meeting and the proposed merger is contained in this proxy statement/prospectus. Middleby has also entered into a voting and support agreement with directors and officers of TurboChef who own, collectively, approximately 20% of TurboChef’s outstanding shares. We urge you to read this proxy statement/prospectus carefully. For a discussion of risk factors you should consider in evaluating the merger on which you are being asked to vote, see “Risk Factors” beginning on page 29 of this proxy statement/prospectus.

Whether or not you plan to attend the TurboChef special meeting, please submit your proxy by following the instructions on your proxy card or the information forwarded by your bank, broker, custodian or other record holder as

soon as possible to make sure that your shares are represented at the TurboChef special meeting.

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The board of directors of TurboChef unanimously recommends that TurboChef stockholders vote FOR the proposal to adopt the merger agreement and FOR the proposal to approve any motion to adjourn or postpone the TurboChef special meeting to a later date or dates if necessary to solicit additional proxies.

Richard E. Perlman  
Chairman of the Board  
Atlanta, Georgia  
, 2008

James K. Price  
President and Chief Executive Officer

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the merger or the other transactions described in this proxy statement/prospectus nor have they approved or disapproved of the issuance of the Middleby common stock in connection with the merger, or determined if this proxy statement/prospectus is accurate or complete. Any representation to the contrary is a criminal offense.

This proxy statement/prospectus is dated \_\_\_\_\_, 2008, and is first being mailed to TurboChef stockholders on or about \_\_\_\_\_, 2008.

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TURBOCHEF TECHNOLOGIES, INC.  
SIX CONCOURSE PARKWAY  
SUITE 1900  
ATLANTA, GA 30328

To the Stockholders of TurboChef Technologies, Inc.:

You are cordially invited to attend a special meeting of stockholders of TurboChef Technologies, Inc. ("TurboChef") to be held at the offices of Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., Suite 2400, Atlanta, Georgia 30308, on \_\_\_\_\_ at \_\_\_\_\_, local time, for the following purposes:

1. To adopt the Agreement and Plan of Merger, dated as of August 12, 2008, by and among The Middleby Corporation ("Middleby"), Chef Acquisition Corp. and TurboChef, as amended November 21, 2008, and as may be further amended from time to time, a copy of which has been included as Annex A to the accompanying proxy statement/prospectus.
2. To approve any motion to adjourn or postpone the TurboChef special meeting to a later date or dates, if necessary, to solicit additional proxies if there are insufficient votes at the time of the TurboChef special meeting to approve the proposal to adopt the merger agreement.

The accompanying proxy statement/prospectus further describes the matters to be considered at the TurboChef special meeting.

The TurboChef board of directors has set November 5, 2008 as the record date for the TurboChef special meeting. Only holders of record of shares of TurboChef common stock at the close of business on the record date will be entitled to notice of and to vote at the TurboChef special meeting and any adjournments or postponements thereof. To ensure your representation at the TurboChef special meeting, please complete and return the enclosed proxy card. Please vote promptly whether or not you expect to attend the TurboChef special meeting. Submitting a proxy now will not prevent you from being able to vote at the TurboChef special meeting by attending in person and casting a vote. If your shares are held in a stock brokerage account or by a bank or other broker nominee, then you are not the record holder of your shares, and while you are welcome to attend the special meeting, you would not be permitted to vote unless you obtained a signed proxy from your broker nominee (who is the holder of record). However, your broker nominee has enclosed a voting instruction card for you to use to indicate your voting preference, which may provide that you can deliver your instructions by telephone or over the Internet. Please complete the voting instruction card and return it to your broker nominee as soon as possible.

The board of directors of TurboChef unanimously recommends that you vote FOR the proposal to adopt the merger agreement and FOR the proposal to approve any motion to adjourn the special meeting to a later date if necessary to solicit additional proxies.

By Order of the Board of Directors,

Richard E. Perlman  
Chairman of the Board

James K. Price  
President and Chief Executive Officer

Atlanta, Georgia  
, 2008

IT IS IMPORTANT THAT YOU VOTE YOUR SHARES PROMPTLY. YOU CAN FIND INSTRUCTIONS FOR VOTING ON THE ENCLOSED PROXY CARD. YOU MAY REVOTE YOUR PROXY AT ANY TIME BEFORE THE VOTE IS TAKEN AT THE MEETING.

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