

QUESTCOR PHARMACEUTICALS INC

Form 425

April 07, 2014

Mallinckrodt-Questcor
Transaction
Creates Diversified,
High-Growth Specialty
Pharmaceutical Company

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April 7, 2014

Filed by Mallinckrodt plc

Pursuant to Rule 425 under the Securities Act of 1933

and deemed filed pursuant to Rule 14a-12

of the Securities Exchange Act of 1934

Subject Company: Questcor Pharmaceuticals, Inc.

Commission File No.: 001-14758

Cautionary Statements Related to Forward-Looking
Statements

1

Statements in this document that are not strictly historical, including statements regarding the proposed acquisition, the expected timetable for completing the transaction, future financial and operating results, benefits and synergies of the transaction, future opportunities for the combined businesses and any other statements regarding events or developments that

we

believe

or

anticipate
will
or
may
occur
in
the
future,
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be

forward-looking
statements
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Private Securities Litigation Reform Act of 1995, and involve a number of risks and uncertainties. There are a number of important factors that could cause actual events to differ materially from those suggested or indicated by such forward-looking statements and you should not place undue reliance on any such forward-looking statements. These factors include risks and uncertainties related to, among other things:

The commercial success of Mallinckrodt's and Questcor's products, including H.P. Acthar

®

Gel

Mallinckrodt's and Questcor's ability to protect intellectual property rights

The uncertainty of approval under the Hart Scott Rodino Antitrust Improvements Act

General economic conditions and conditions affecting the industries in which Mallinckrodt and Questcor operate

The parties

ability to satisfy the merger agreement conditions and consummate the merger on the anticipated timeline

or at all

The availability of financing, including the financing contemplated by the debt commitment letter, on anticipated terms or at all

Mallinckrodt's ability to successfully integrate Questcor's operations and employees with Mallinckrodt's existing business

The ability to realize anticipated growth, synergies and cost savings

Questcor's performance and maintenance of important business relationships

The lack of patent protection for Acthar, and the possible United States Food and Drug Administration (FDA) approval and market introduction of additional competitive products

Questcor's reliance on Acthar for substantially all of its net sales and profits

Questcor's ability to continue to generate revenue from sales of Acthar to treat on-label indications associated with nephrotic syndrome, multiple sclerosis, infantile spasms or rheumatology-related conditions, and Questcor's ability to develop other therapeutic uses for Acthar

Volatility in Questcor's Acthar shipments, estimated channel inventory, and end-user demand; an increase in the proportion of Questcor's Acthar unit sales comprised of Medicaid-eligible patients and government entities

Cautionary Statements Related to Forward-Looking
Statements (cont.)

2

Questcor's research and development risks, including risks associated with Questcor's work in the area of nephrotic syndrome and Lupus, and Questcor's efforts to develop and obtain FDA approval of Synacthen

Mallinckrodt's ability to receive procurement and production quotas granted by the U.S. Drug Enforcement Administration

Mallinckrodt's ability to obtain and/or timely transport molybdenum-99 to our technetium-99m generator production facilities

Customer concentration

Cost-containment efforts of customers, purchasing groups, third-party payors and governmental organizations

Mallinckrodt's ability to successfully develop or commercialize new products

Competition

Mallinckrodt's ability to integrate acquisitions of technology, products and businesses generally

Product liability losses and other litigation liability

The reimbursement practices of a small number of large public or private issuers

Complex reporting and payment obligations under healthcare rebate programs

Changes in laws and regulations

Conducting business internationally

Foreign exchange rates

Material health, safety and environmental liabilities

Litigation and violations

Information technology infrastructure

Restructuring activities

Additional information regarding the factors that may cause actual results to differ materially from these forward-looking statements

is

available

in

(i)

Mallinckrodt's

SEC

filings,

including

its

Annual

Report

on

Form

10-K

for

the

fiscal

year

ended

September 27, 2013 and Quarterly Report on Form *10-Q*

for the quarterly period ended December 27, 2013; (ii) the SEC

filings of Cadence Pharmaceuticals, Inc., which was acquired by Mallinckrodt on March 19, 2014, including its Annual Report on Form *10-K*

for the fiscal year ended December 31, 2013; and (iii) Questcor's SEC filings, including its Annual Report on Form *10-K*

for the year ended December 31, 2013. The forward-looking statements made herein speak only as

of the date hereof and none of Mallinckrodt, Questcor or any of their respective affiliates assumes any obligation to update or revise any forward-looking statement, whether as a result of new information, future events and developments or otherwise, except as required by law.

3

Important Information for Investors and Shareholders

This communication does not constitute an offer to sell or the solicitation of an offer to buy any securities or a solicitation of any vote or approval, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. In connection with the proposed transaction between Mallinckrodt and Questcor, Mallinckrodt will file with the SEC a registration statement on Form S-4 that will include a joint proxy statement of Mallinckrodt and Questcor that also constitutes a prospectus of Mallinckrodt. The definitive joint proxy statement/prospectus will be delivered to shareholders of Mallinckrodt and Questcor.

INVESTORS AND SECURITY HOLDERS OF MALLINCKRODT AND QUESTCOR ARE URGED TO READ THE DEFINITIVE JOINT PROXY STATEMENT/PROSPECTUS AND OTHER DOCUMENTS THAT WILL BE FILED WITH

SEC CAREFULLY AND IN THEIR ENTIRETY WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION.

Investors and security holders will be able to obtain free copies of the registration statement and the definitive joint proxy statement/prospectus (when available) and other documents filed with the SEC by Mallinckrodt and Questcor through the website maintained by the SEC at <http://www.sec.gov>. Copies of the documents filed with the SEC by Mallinckrodt will be available free of charge on Mallinckrodt's

internet website at www.Mallinckrodt.com or by contacting Mallinckrodt's Investor

Relations Department at (314) 654-6650. Copies of the documents filed with the SEC by Questcor will be available free of charge on Questcor's internet website at www.Questcor.com or by contacting Questcor's Investor Relations Department at (714) 497-4899.

Participants in the Merger Solicitation

Mallinckrodt, Questcor, their respective directors and certain of their executive officers and employees may be considered participants in the solicitation of proxies in connection with the proposed transaction. Information regarding the persons who may, under the rules of the SEC, be deemed participants in the solicitation of the Mallinckrodt and Questcor shareholders in connection with the proposed merger and a description of their direct and indirect interests, by security holdings or otherwise, will be set forth in the joint proxy statement/prospectus when it is filed with the SEC. Information about the directors and executive officers of Mallinckrodt is set forth in its proxy statement for its 2014 annual meeting of stockholders, which was filed with the SEC on January 24, 2014. Information about the directors and executive officers of Questcor is set forth in its proxy statement for its 2013 annual meeting of stockholders, which was filed with the SEC on April 15, 2013.

Consideration

Structure

Financing

Timing

Transaction highlights

4

Following completion of merger Mallinckrodt shareholders will own approximately 50.5% and former Questcor shareholders will own approximately 49.5% of the combined company's stock.

Closing expected third calendar quarter of 2014,
subject to approval of both sets of shareholders
and clearance under the Hart-Scott-Rodino Act
in the U.S.

Financing expected to consist of a combination of
a senior secured term loan facility and senior notes.
Cash and equity valued at approximately \$5.6 billion.
Questcor shareholders to receive \$30.00 in cash and
0.897 Mallinckrodt shares for each share of Questcor
common stock they own.

New Mallinckrodt Management

5

The combined company will be known as
Mallinckrodt Pharmaceuticals

Mark Trudeau, Mallinckrodt President and CEO,
will lead the combined company

Matt Harbaugh will continue as Mallinckrodt CFO

Mallinckrodt will expand its Board of Directors
from nine to twelve members

Melvin Booth to continue as Mallinckrodt's

Board Chairman

Don Bailey, Questcor CEO, Virgil Thompson,
Chairman of Questcor's Board, and Angus
Russell

both independent directors of

Questcor

all to join expanded Board

Transaction will provide exceptional value for
shareholders of both companies

6

The transaction will:

Substantially increased scale, diversification, profitability and cash flow

Strong, sustainable platform for future revenue and earnings growth

Accelerate strategic shift to Specialty Pharmaceuticals portfolio:

Adds high-growth Acthar to Mallinckrodt's broadening growth portfolio

Expands ability to bring forward new treatments in
therapeutic areas of high unmet need

Strengthens potential opportunity for expansion in
established Mallinckrodt global footprint with broader
specialty pharmaceuticals portfolio

1 Acthar is a registered trademark of Questcor Pharmaceuticals, Inc.

Strengthen

Mallinckrodt's

strategic

platform

Provide

Questcor

with

diversification

and

new

H.P.

Acthar

®1

Gel

(repository corticotropin injection) growth opportunities

Create a company with:

Questcor is a rapidly-growing biopharmaceutical company focused on difficult-to-treat autoimmune and inflammatory disorders

² In June of 2013, Questcor acquired rights from Novartis Pharma AG and Novartis AG to develop

⁷

Founded in 1990; now 550+ employees with calendar 2013 revenues of \$799 million; \$338 million operating cash flow
FDA

¹

-approved in 19 indications, Acthar's rapid growth achieved

within four main areas: infantile spasms, proteinuria associated with nephrotic syndrome, multiple sclerosis relapses and certain rheumatology-related conditions

Outstanding growth prospects expected based on expansion into additional FDA-approved indications within rheumatology, pulmonology and other therapeutic areas, as well as global opportunities through existing Mallinckrodt platform

Opportunity

to

develop

potential

indications

for

Synacthen

TM

for

possible U.S. clinical development

2,3

Flagship product Acthar has a unique therapeutic role in difficult-to-treat diseases

1 U.S. Food and Drug Administration

3 Synacthen is a trademark of Novartis Pharma AG

Synacthen and Synacthen Depot in the U.S. and certain countries outside the U.S.

Mallinckrodt: Strategically diversifying business platform
and

portfolio through organic growth and BD&L

8

Mallinckrodt is a global specialty pharmaceutical and medical imaging business

Core strengths include: acquisition and management of highly regulated raw
materials;

deep

regulatory

expertise;

and
specialized
chemistry,
formulation
and
manufacturing capabilities
Fiscal year 2013 revenues of \$2.2 billion
Diversified portfolio includes pain management,
CNS
and addiction treatment
Strong
specialty
pharmaceuticals
core
platform
built
on
EXALGO
,
specialty
controlled substance generics and APIs
New products, expanded hospital platform strengthen Mallinckrodt's specialty
brands business
Acquisition
of
Cadence
and
its
OFIRMEV
franchise
boosts
earnings
and
growth,
adding strong foothold in U.S. hospitals
Recent
approvals
of
XARTEMIS
XR
and
PENNSAID
2%
further expand pain management platform
2
Active Pharmaceutical Ingredients
3 Central Nervous System
1 Business Development & Licensing
1
2

3
®
®
®

Acthar is FDA-approved for the treatment of certain serious disorders across multiple therapeutic areas

Infantile spasms

In children less than two years old

Nephrology

Proteinuria in idiopathic types of nephrotic syndrome

Multiple sclerosis

Acute exacerbations in adults

Rheumatology

Psoriatic arthritis (adjunctive therapy)
Ankylosing spondylitis (adjunctive therapy)
Rheumatology
Systemic dermatomyositis (polymyositis)
Systemic lupus erythematosus
Rheumatoid arthritis (adjunctive therapy)
Pulmonology
Symptomatic sarcoidosis
Dermatology
Severe erythema multiforme
Stevens-Johnson syndrome
Ophthalmology
Severe acute and inflammatory processes (e.g., keratitis)
Currently marketed indications
Additional on-label indications
Acthar is FDA-approved for 19 indications

Transaction is financially compelling

10

Increases

Financial

Strength

Significantly

Enhances

Growth

Capacity

Transaction expected to be immediately accretive to

Mallinckrodt's fiscal year 2014 adjusted diluted earnings per share, and expected to be significantly accretive to fiscal year 2015 adjusted diluted earnings per share

Combined company's earnings profile expected to be enhanced by sustainable tax opportunities beginning in fiscal year 2014, in addition to the strong pro forma capital structure of the combined company

Expect to use the strong cash flow generated by the newly combined entity to reduce outstanding debt and Mallinckrodt's net debt-to-EBITDA

leverage ratio in fiscal year 2014, and to achieve further reductions over the course of fiscal year 2015

Enhances capacity to pursue further growth across specialty pharmaceuticals platform

Greater financial strength expected to support expansion of Acthar into new therapeutic areas in addition to incremental R&D investment

1 Mallinckrodt intends to provide investors with updated guidance for the combined company at a future point following the completion of the transaction

2 Earnings before interest, tax, depreciation and amortization

1

2

Transaction reinforces growth strategy and increases financial capacity, enriching combined organization

11

Accelerates

Strategic

Goals

Enhances R&D

Pipeline and

Capabilities

Expands and enhances breadth and depth of specialty

pharmaceuticals portfolio into new channel adjacencies with
global platform for future growth possibilities
Creates a premier specialty pharmaceutical company with
growth platforms across multiple therapeutic areas:
Pain management, CNS, nephrology, rheumatology, other
autoimmune and inflammatory disorders
Approximately 70% of the pro forma
revenues of the combined
company expected to come from branded and specialty generic
pharmaceutical products and APIs
Significantly expands business development opportunities
Opportunity to develop new indications for Acthar
Provides resources to become leader in
bringing forward new therapies in rare,
difficult-to-treat diseases
Strengthens Mallinckrodt's commitment
to improving quality of care for patients
1 Fiscal year 2014

1

Acthar expands the breadth of Mallinckrodt's specialty platforms and sets the stage for future growth

12

Autoimmune &

Inflammatory Brand

Specialty Generics

Hospital-Based

Brands

Evolution of Mallinckrodt's Specialty Pharmaceuticals Platform

Office-Based

Brands
Extensive portfolio,
Including:

New Mallinckrodt will have scale, focus and global reach
to extend its leadership in specialty pharmaceuticals

13

Well-established
generics, API and
imaging businesses
Growth platforms in
office-based pain and
specialty generics
products

Core strength in
difficult-to-manage
controlled substances
and formulations
Strong regulatory
expertise
Global footprint
Differentiated, branded
product with strong
growth prospects
Strengthens pain
management portfolio
Strong foothold in U.S.
hospitals
Highly profitable and
rapidly-growing franchise
New autoimmune and
inflammatory platform
High-potential pipeline
Expertise in highly
complex formulations

To learn more, visit

www.mallinckrodt.com

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