

AMERISOURCEBERGEN CORP

Form 8-K

February 18, 2015

**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 Earliest Event Reported): **February 17, 2015**

**AmerisourceBergen Corporation**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction  
of incorporation)

**1-16671**  
(Commission  
File Number)

**23-3079390**  
(I.R.S. Employer  
Identification No.)

**1300 Morris Drive**  
**Chesterbrook, PA**  
(Address of principal executive offices)

**19087**  
(Zip Code)

Registrant's telephone number, including area code: **(610) 727-7000**

**Not Applicable**  
Former name or former address, if changed since last report

## Edgar Filing: AMERISOURCEBERGEN CORP - Form 8-K

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:

- ☐ 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))
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**Item 7.01. Regulation FD Disclosure.**

On February 17, 2015, AmerisourceBergen Corporation (the Company or AmerisourceBergen) issued a news release announcing that it priced \$500 million aggregate principal amount of the Company's 3.250% Senior Notes due March 1, 2025 (the 2025 Notes) and \$500 million aggregate principal amount of the Company's 4.250% Senior Notes due March 1, 2045 (the 2045 Notes and together with the 2025 Notes, the Notes) in an underwritten registered public offering. The news release is being furnished with this Current Report as Exhibit 99.1 and is incorporated herein by reference.

**Item 8.01. Other Events.**

On February 17, 2015, the Company entered into an Underwriting Agreement (the Underwriting Agreement), by and among the Company and Merrill Lynch, Pierce, Fenner & Smith Incorporated and Wells Fargo Securities, LLC, on behalf of themselves and as representatives of the several underwriters named therein (the Underwriters). The Underwriting Agreement provides for the issuance and sale by the Company, and the purchase by the Underwriters, of the 2025 Notes and the 2045 Notes. The Notes will be senior unsecured obligations of the Company. The Underwriting Agreement contains representations, warranties, conditions and covenants of the parties thereto and provides for indemnification by each of the Company and the Underwriters against certain liabilities and contribution provisions in respect of those liabilities. The Company expects to consummate the sale of the Notes to the Underwriters, which is subject to the closing conditions specified in the Underwriting Agreement, on February 20, 2015.

The offer and sale of the Notes have been registered under the Securities Act of 1933, as amended, pursuant to the Company's shelf registration statement on Form S-3 (Registration Statement No. 333-185163) (the Shelf Registration Statement), filed with the Securities and Exchange Commission on November 27, 2012.

If the sale of the Notes is consummated pursuant to the terms set forth in the Underwriting Agreement, the Company estimates that it will receive net proceeds of approximately \$987 million (after deducting underwriting discounts and offering expenses) from the sale of the Notes. The Company intends to use the net proceeds to finance a portion of the previously disclosed proposed acquisition (the Acquisition) of MWI Veterinary Supply, Inc., a Delaware corporation (MWI), and to pay related fees and expenses, including the retirement of outstanding indebtedness of MWI. The Notes offering is not contingent on the consummation of the Acquisition which, if completed, will occur subsequent to the closing of the offering. In the event that the Acquisition is not completed on or before May 15, 2015, or, if prior to such time, the acquisition agreement is terminated, other than in connection with the consummation of the Acquisition, and is not otherwise amended or replaced, then the Notes are subject to mandatory redemption, in whole but not in part, at a redemption price equal to 101% of the aggregate principal amount of the Notes, plus accrued and unpaid interest to, but not including, the redemption date. The Notes offering is expected to close prior to the consummation of the Acquisition. Pending use of the net proceeds from the sale of the Notes, the Company intends to

invest such proceeds in institutional money market funds, U.S. government securities, certificates of deposit or other short-term interest-bearing securities.

Certain of the underwriters and their affiliates have in the past provided, and may in the future provide, investment banking, commercial banking, derivative transactions and financial advisory services to the Company and its affiliates in the ordinary course of business for which they have received and may continue to receive customary fees and commissions. Specifically, Merrill Lynch, Pierce, Fenner & Smith Incorporated and Wells Fargo Securities, LLC have served as joint book-running managers, and as underwriters, in connection with past senior note offerings by the Company and may serve similar roles in future securities offerings by the Company. Additionally, affiliates of the underwriters serve various roles in the Company's Multi-Currency Revolving Credit Facility: Bank of America, N.A., an affiliate of Merrill Lynch, Pierce, Fenner & Smith Incorporated, serves as a syndication agent and lender; Wells Fargo Bank N.A., an affiliate of Wells Fargo Securities, LLC, serves as syndication agent and a lender; and Merrill Lynch, Pierce, Fenner & Smith Incorporated and Wells Fargo Securities, LLC serve as lead arrangers and joint bookrunners. As of February 12, 2015, there were no borrowings outstanding under the Company's Multi-Currency Revolving Credit Facility. In addition, Wells Fargo Bank N.A., an affiliate of Wells Fargo Securities, LLC, serves as a purchaser in connection with a \$950 million receivables securitization facility to which the Company's subsidiary, AmerisourceBergen Drug Corporation, is a party and pursuant to which accounts receivables are sold on a revolving basis to a special purpose entity. Further, Bank of America, N.A., an affiliate of Merrill Lynch, Pierce, Fenner & Smith Incorporated, serves as the Company's financial advisor in connection with the Acquisition, and as sole and exclusive administrative agent, lead arranger and sole and exclusive bookrunner for the lenders under the senior unsecured bridge term loan facility. Lastly, Merrill Lynch, Pierce, Fenner & Smith Incorporated serves as lead arranger and joint bookrunner, and Bank of America, N.A., its affiliate, serves as administrative agent and lender, under a senior unsecured term loan credit facility (the Term Loan Facility), if completed, and Wells Fargo Securities, LLC serves as lead arranger and joint bookrunner, and Wells Fargo Bank N.A., its affiliate, serves as syndication agent and lender under the Term Loan Facility, if completed. Certain of the other underwriters or their affiliates also serve as lenders, purchasers or agents under these facilities.

The foregoing is a brief description of certain terms of the Underwriting Agreement and, by its nature, is incomplete. It is qualified in its entirety by the text of the Underwriting Agreement filed as Exhibit 1.1 to this Current Report and incorporated herein by reference. The Underwriting Agreement is also filed with reference to, and is hereby made an exhibit to, the Shelf Registration Statement.

#### ***Forward-Looking Statements***

Certain of the statements contained in this Current Report on Form 8-K are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Words such as expect, likely, outlook, forecast, would, could, should, can, will, project, intend, plan, continue, sustain, synergy, on track, believe, seek, estimate, anticipate, and variations of such words, and similar expressions are intended to identify such forward-looking statements. These statements are based on management's current expectations and are subject to

uncertainty and change in circumstances. These statements are not guarantees of future performance and are based on assumptions that could prove incorrect or could cause actual results to vary materially from those indicated. Among the factors that could cause actual results to differ materially from those projected, anticipated, or implied are the following: changes in pharmaceutical market growth rates; price inflation in branded and generic pharmaceuticals and price deflation in generics; declining economic conditions, increased costs of maintaining, or reductions in AmerisourceBergen's ability to maintain, adequate liquidity and financing sources, and interest rate and foreign currency exchange rate fluctuations; the disruption of AmerisourceBergen's cash flow and ability to return value to its stockholders in accordance with its past practices, disruption of or changes in vendor, payer and customer relationships and terms, and the reduction of AmerisourceBergen's operational, strategic or financial flexibility; volatility and disruption of the capital and credit markets; economic, business, competitive and/or regulatory developments in countries where AmerisourceBergen does business and/or operates outside of the United States; supplier bankruptcies, insolvencies or other credit failures; customer bankruptcies, insolvencies or other credit failures; the loss of one or more key customer or supplier relationships resulting in changes to the customer or supplier mix; the retention of key customer or supplier relationships under less favorable economics or the adverse resolution of any contract or other dispute with customers or suppliers; risks associated with the strategic, long-term relationship among Walgreen Co., Alliance Boots GmbH, and AmerisourceBergen, including the occurrence of any event, change or other circumstance that could give rise to the termination, cross-termination or modification of any of the transaction documents among the parties (including, among others, the distribution agreement or the generics agreement), an impact on AmerisourceBergen's earnings per share resulting from the issuance of the warrants to subsidiaries of Walgreen Co. and Alliance Boots GmbH (the "Warrants"), an inability to realize anticipated benefits (including benefits resulting from participation in the Walgreens Boots Alliance Development GmbH joint venture), AmerisourceBergen's inability to implement its hedging strategy to mitigate the potentially dilutive effect of the issuance of its common stock under its special share repurchase program due to its financial performance, the current and future share price of its common stock, its expected cash flows, competing priorities for capital, and overall market conditions; increasing governmental regulations regarding the pharmaceutical supply channel; federal and state government enforcement initiatives to detect and prevent suspicious orders of controlled substances and the diversion of controlled substances, federal and state prosecution of alleged violations of related laws and regulations, and any related litigation, including shareholder derivative lawsuits or other disputes relating to the Company's distribution of controlled substances; changes in federal and state legislation or regulatory action affecting pharmaceutical product pricing or reimbursement policies, including under Medicaid and Medicare, and the effect of such changes on AmerisourceBergen's customers; frequent changes to laws and regulations in respect of healthcare fraud and abuse and the increased scrutiny of the federal government related thereto; qui tam litigation for alleged violations of fraud and abuse laws and regulations and/or any other laws and regulations governing the marketing, sale, purchase and/or dispensing of pharmaceutical products or services and any related litigation, including shareholder derivative lawsuits; the acquisition of businesses that do not perform as AmerisourceBergen expects or that are difficult for it to integrate or control or AmerisourceBergen's inability to successfully complete any other transaction that it may wish to pursue from time to time; risks associated with the acquisition of MWI, including the anticipated changes in the business environment in which AmerisourceBergen or MWI operates and in

AmerisourceBergen's future operating results relating to the potential benefits of a transaction with MWI and the ability of AmerisourceBergen and MWI to complete the transactions contemplated by the merger agreement, including the parties' ability to satisfy the conditions to the transaction set forth in the merger agreement, uncertainties as to the timing of the tender offer and the subsequent merger, the possibility that various conditions to the consummation of the tender offer or the merger may not be satisfied or waived, and the effects of disruption from the transactions on the respective businesses of AmerisourceBergen and MWI and the fact that the announcement and pendency of the transactions may make it more difficult to establish or maintain relationships with employees, suppliers and other business partners; risks associated with international business operations, including non-compliance with the U.S. Foreign Corrupt Practices Act, anti-bribery laws and economic sanctions and import laws and regulations; risks generally associated with the sophisticated information systems on which AmerisourceBergen relies, including significant breakdown or interruption of such systems; risks generally associated with data privacy regulation and the international transfer of personal data; changes in tax laws or legislative initiatives that could adversely affect AmerisourceBergen's tax positions and/or AmerisourceBergen's tax liabilities or adverse resolution of challenges to AmerisourceBergen's tax positions; natural disasters or other unexpected events that affect AmerisourceBergen's operations; and other economic, business, competitive, legal, tax, regulatory and/or operational factors affecting AmerisourceBergen's business generally. Certain additional factors that management believes could cause actual outcomes and results to differ materially from those described in forward-looking statements are set forth (i) in Item 1A (Risk Factors) and Item 1 (Business) in the Company's Annual Report on Form 10-K for the fiscal year ended September 30, 2014 and elsewhere in that report and (ii) in other reports.

### *Additional Information*

This communication is for informational purposes only and is neither an offer to purchase nor a solicitation of an offer to sell shares of MWI common stock. The Company has filed with the SEC a tender offer statement on Schedule TO regarding the tender offer described herein, and MWI has filed with the SEC a solicitation/recommendation statement on Schedule 14D-9 regarding such tender offer. **MWI's stockholders are strongly advised to read these tender offer materials, as well as any other documents relating to the tender offer and the associated transactions that are filed with the SEC, carefully and in their entirety, as they may be amended from time to time, because they contain important information about the tender offer that MWI's stockholders should consider prior to making any decisions with respect to the tender offer.** Stockholders of MWI may obtain a free copy of these documents at the website maintained by the SEC at [www.sec.gov](http://www.sec.gov), by directing a request to the Information Agent at (866) 277-8239 or [MWIV@georgeson.com](mailto:MWIV@georgeson.com).

### **Item 9.01. Financial Statements and Exhibits.**

| <b>Exhibit Number</b> | <b>Description</b>                                                                                                       |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------|
| 1.1                   | Underwriting Agreement for 3.250% Senior Notes due 2025 and 4.250% Senior Notes due 2045, dated as of February 17, 2015. |
| 99.1                  | News release of AmerisourceBergen Corporation, dated February 17, 2015.                                                  |

**SIGNATURES**

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.

AmerisourceBergen Corporation

February 18, 2015

By:

/s/ Tim G. Guttman

Name: Tim G. Guttman

Title: Executive Vice President and Chief Financial Officer

**EXHIBIT INDEX**

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