

Jazz Pharmaceuticals plc
Form 8-K
August 13, 2014

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
August 7, 2014

Date of Report (Date of earliest event reported)

JAZZ PHARMACEUTICALS PUBLIC LIMITED COMPANY

(Exact name of registrant as specified in its charter)

Ireland
(State or other jurisdiction
of incorporation)

001-33500
(Commission
File No.)
Fourth Floor, Connaught House,

98-1032470
(IRS Employer
Identification No.)

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1 Burlington Road, Dublin 4, Ireland

(Address of principal executive offices, including zip code)

011-353-1-634-7800

(Registrant's telephone number, including area code)

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))

Item 1.01. Entry into a Material Definitive Agreement.

Closing of Exchangeable Senior Notes Offering

On August 13, 2014, Jazz Investments I Limited, a Bermuda exempted company limited by shares (the *Issuer*) and a wholly-owned subsidiary of Jazz Pharmaceuticals plc (the *Company*), completed its previously announced private placement of \$575.0 million aggregate principal amount of its 1.875% exchangeable senior notes due 2021 (the *Notes*) to several investment banks acting as initial purchasers (collectively, the *Initial Purchasers*) who subsequently resold the Notes to qualified institutional buyers in reliance on the exemption from registration provided by Rule 144A under the Securities Act of 1933, as amended (the *Securities Act*). The Notes sold in the offering include \$75.0 million aggregate principal amount of Notes sold to the Initial Purchasers pursuant to their option to purchase additional Notes, solely to cover over-allotments, which was exercised in full on August 12, 2014.

The Company estimates that the net proceeds from the offering of the Notes will be approximately \$559.0 million, after deducting the Initial Purchasers' discount and estimated offering expenses payable by the Issuer and the Company. The Company intends to use a portion of the net proceeds from this offering to repay outstanding borrowings under the revolving credit facility provided for under the Company's credit agreement and to use the remainder of the net proceeds for general corporate purposes, including potential business development activities. As of June 30, 2014, the Company had borrowed \$300.0 million under the revolving credit facility and the interest rate on these borrowings at that date was 2.65%.

The Notes, the Guarantee and the Indenture

The Notes were issued pursuant to an Indenture, dated as of August 13, 2014 (the *Indenture*), among the Issuer, the Company and U.S. Bank National Association, as trustee. The Notes are fully and unconditionally guaranteed, on a senior unsecured basis, by the Company (the *Guarantee*). The Notes and the Guarantee are the Issuer's and the Company's senior unsecured obligations.

Interest on the Notes will be payable semi-annually in cash in arrears on February 15 and August 15 of each year, beginning on February 15, 2015, at a rate of 1.875% per year. In certain circumstances, the Issuer and the Company may be required to pay additional amounts as a result of any applicable tax withholding or deductions required in respect of payments on the Notes. The Notes mature on August 15, 2021 unless earlier exchanged, repurchased or redeemed.

The Notes are exchangeable at an initial exchange rate of 5.0057 ordinary shares of the Company (*ordinary shares*) per \$1,000 principal amount of the Notes, which is equal to an initial exchange price of approximately \$199.77 per ordinary share. Upon exchange, the Notes may be settled in cash, ordinary shares or a combination of cash and ordinary shares, at the Issuer's election. The exchange rate will be subject to adjustment in some events but will not be adjusted for any accrued and unpaid interest. Following a *make-whole fundamental change* (as defined in the Indenture) or upon the Issuer's issuance of a notice of redemption, the Issuer will increase the exchange rate for a holder who elects to exchange its Notes in connection with such *make-whole fundamental change* or during the related redemption period in certain circumstances.

Holders may exchange all or any portion of their Notes at their option at any time prior to the close of business on the business day immediately preceding February 15, 2021 only upon satisfaction of one or more of the following conditions: (1) during any calendar quarter commencing after the calendar quarter ending on December 31, 2014 (and only during such calendar quarter), if the last reported per share sale price of the ordinary shares for at least 20 trading days (whether or not consecutive) during the period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the exchange price on each applicable trading day; (2) during the five business day period after any five consecutive trading day period (the *measurement*

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period) in which the trading price per \$1,000 principal amount of Notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of the ordinary shares and the applicable exchange rate on such trading day; (3) if the Issuer provides a notice of redemption, at any time following the issuance of the redemption notice and prior to the close of business on the second scheduled trading day immediately preceding the related redemption date; or (4) upon the occurrence of specified corporate events. On or after February 15, 2021, a holder may exchange any of its Notes at any time prior to the close of business on the second scheduled trading day immediately preceding the maturity date, regardless of the foregoing conditions.

The Issuer may redeem the Notes at its option, prior to August 15, 2021, in whole but not in part, subject to compliance with certain conditions, if the Issuer has or on the next interest payment date would, become obligated to pay to the holder of any Note additional amounts as a result of certain tax-related events at a redemption price equal to 100% of the principal amount plus accrued and unpaid interest, including additional interest, if any, to, but excluding, the redemption date. The Issuer also may redeem the Notes at its option on or after August 20, 2018, in whole or in part, if the last reported sale price per ordinary share has been at least 130% of the exchange price then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading day period ending on, and including, the trading day immediately preceding the date on which the Issuer provides notice of redemption at a redemption price equal to 100% of the principal amount of the Notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. No sinking fund will be provided for the Notes.

If the Company undergoes a fundamental change (as defined in the Indenture), subject to certain conditions, holders may require the Issuer to repurchase all or part of their Notes at a repurchase price equal to 100% of the principal amount of the Notes to be repurchased, plus accrued and unpaid interest to, but excluding, the fundamental change repurchase date.

The Indenture includes customary terms and covenants, including certain events of default after which the Notes may be due and payable immediately. The following events are considered events of default, which may result in acceleration of the maturity of the Notes:

- (1) the Issuer fails to pay or cause to be paid any installment of interest on any of the Notes, which failure continues for 30 days after the date when due;
- (2) the Issuer fails to pay or cause to be paid the principal of any Note when the same becomes due and payable at its stated maturity, upon redemption, upon required repurchase, upon declaration of acceleration or otherwise;
- (3) the Issuer or the Company fails to pay or deliver when due the consideration deliverable upon exchange of the Notes and such failure continues for five business days;
- (4) the Issuer fails to comply with its notice obligations in connection with a fundamental change, specified corporate events or a make-whole fundamental change as provided in the Indenture;
- (5) the Issuer or the Company fails to comply with its respective obligations under the Indenture with respect to consolidation, merger or sale of assets of the Issuer or the Company;
- (6) the Issuer fails for a period of 60 days after written notice from the trustee or the holders of 25% or more of aggregate principal amount of the Notes then outstanding has been received by the Issuer to perform or observe any term, covenant or agreement contained in the Notes or the Indenture;
- (7) the Issuer, the Company or any of the Company's other subsidiaries shall be in default with respect to any mortgage, agreement or other instrument under which there may be outstanding, or by which there may be

secured or evidenced, any indebtedness for money borrowed in excess of \$40.0 million (or its foreign currency equivalent) in the aggregate of the Issuer, the Company and/or any such subsidiary, and such default:

(i) results in such indebtedness becoming or being declared due and payable, or

(ii) constitutes a failure to pay the principal or interest of any such indebtedness when due and payable (at its stated maturity, upon redemption, upon required repurchase, upon declaration or acceleration as a result of an event of default or otherwise),

if such default is not cured or waived, or such acceleration is not rescinded or annulled, within 60 days after written notice to the Company by the trustee or holders of 25% or more in aggregate principal amount of the Notes then outstanding;

(8) a final judgment for payment of \$40.0 million (or its foreign currency equivalent) or more is rendered against the Issuer, the Company or any of the Company's significant subsidiaries, and such judgment is not discharged, stayed, vacated, paid or otherwise satisfied within 60 days after (i) the date on which the right to appeal thereof has expired if no such appeal has commenced or (ii) the date on which all rights to appeal have been extinguished;

(9) certain events of bankruptcy, insolvency or reorganization of the Issuer, the Company or any of the Company's significant subsidiaries occur; or

(10) the Guarantee by the Company ceases to be in full force and effect (except as contemplated by the terms of the Indenture) or is declared null and void in a judicial proceeding or the Company denies or disaffirms the obligations under the Indenture or its Guarantee.

If specified bankruptcy and insolvency-related events of default described in clause (9) above and further specified in the Indenture with respect to the Issuer or the Company occur, the principal of, and accrued and unpaid interest on, all of the then-outstanding Notes shall automatically become due and payable. If an event of default other than these bankruptcy and insolvency-related events of default with respect to the Issuer or the Company occurs and is continuing, the trustee by notice to the Issuer or the holders of 25% or more of aggregate principal amount of the Notes then outstanding by notice to the Issuer and the trustee, may declare the principal of, and accrued and unpaid interest on, all of the then-outstanding Notes to be due and payable. Notwithstanding the foregoing, the Indenture provides that, to the extent the Issuer elects, the sole remedy for an event of default relating to certain failures by the Company to comply with certain reporting covenants in the Indenture will, for the first 360 days after such event of default, consist exclusively of the right to receive additional interest on the Notes.

The Issuer has agreed to use its commercially reasonable efforts to procure the listing of the Notes on the Global Exchange Market operated by and under the supervision of the Irish Stock Exchange (or on another recognized stock exchange for the purposes of Section 64 of the Taxes Consolidation Act 1997 of Ireland) prior to February 15, 2015, which is the first interest payment date for the Notes.

The foregoing description of the Notes, the Guarantee, the Indenture and the transactions contemplated thereby does not purport to be complete and is subject to, and qualified in its entirety by reference to, the full text of the Indenture, which is filed as Exhibit 4.1 to this report and incorporated herein by reference.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth in Item 1.01 of this report is incorporated by reference into this Item 2.03.

Item 3.02. Unregistered Sales of Equity Securities.

The information set forth in Item 1.01 and Item 8.01 of this report is incorporated by reference into this Item 3.02.

Item 8.01. Other Events.

On August 7, 2014, the Issuer and the Company entered into a Purchase Agreement (the "Purchase Agreement") with representatives of the Initial Purchasers relating to the sale of up to \$575.0 million aggregate principal amount of the Notes to the Initial Purchasers in a private placement in reliance on Section 4(a)(2) of the Securities Act and for initial resale by the Initial Purchasers to qualified institutional buyers pursuant to the exemption from registration provided by Rule 144A under the Securities Act. The Issuer, the Company and the Initial Purchasers relied on these exemptions from registration based in part on representations made by the Issuer, the Company and the Initial Purchasers, respectively. The sale includes the exercise in full by the Initial Purchasers of their option under the Purchase Agreement to purchase up to an additional \$75.0 million aggregate principal amount of Notes from the Issuer solely to cover over-allotments. The Purchase Agreement includes customary representations, warranties and covenants by the Issuer, the Company and the Initial Purchasers. Under the terms of the Purchase Agreement, each of the Issuer and the Company has agreed to indemnify the Initial Purchasers against certain liabilities under the Securities Act. None of the Notes, the Guarantee or the ordinary shares issuable upon exchange of the Notes has been registered under the Securities Act or the securities laws of any other jurisdiction, and such securities may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit Number	Description
4.1	Indenture, dated as of August 13, 2014, among Jazz Pharmaceuticals Public Limited Company, Jazz Investments I Limited and U.S. Bank National Association
4.2	Form of 1.875% Exchangeable Senior Note due 2021 (included in Exhibit 4.1)

Forward-Looking Statements

This Current Report on Form 8-K contains forward-looking statements, including, but not limited to, all statements related to the expected use of the net proceeds from the offering of the Notes and other future events related to the Notes, and all other statements that are not historical facts. These forward-looking statements are based on the Company's current expectations and inherently involve significant risks and uncertainties. Actual results and the timing of events could differ materially from those anticipated in such forward-looking statements as a result of these risks and uncertainties, which include, without limitation, risks and uncertainties associated with the Company's ability to repay outstanding borrowings under its revolving credit facility in a timely manner or at all, and the Company's ability to re-borrow any amounts repaid under the revolving credit facility; the Company's ability to identify and acquire, in-license or develop additional products or product candidates to grow its business; the Company's ability to service its substantial outstanding consolidated indebtedness, which requires a significant amount of cash, and other risks and uncertainties related to such indebtedness, including, but not limited to, the risks that the accounting method for exchangeable debt securities that may be settled in cash, such as the Notes, is subject to accounting rules that could have a material effect on the Company's reported or future consolidated financial results, that changes in the Company's credit ratings could have an adverse effect on the market price of the ordinary shares and the value of the Notes, and that the Company's substantial outstanding consolidated debt obligations could result in possible restrictions on the Company's ability and flexibility to pursue certain future opportunities; and those other risks detailed from time-to-time under the caption "Risk Factors" and elsewhere in Jazz Pharmaceuticals plc's Securities and Exchange Commission filings and reports (Commission File No. 001-33500), including the Quarterly Report on Form 10-Q for the quarter ended June 30, 2014 and future filings and reports by the Company. The Company undertakes no duty or obligation to update any forward-looking statements contained in this Current Report on Form 8-K as a result of new information, future events or changes in its expectations.

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.

JAZZ PHARMACEUTICALS PUBLIC LIMITED COMPANY

By: /s/ Suzanne Sawochka Hooper

Name: Suzanne Sawochka Hooper

Title: Executive Vice President and General Counsel

Date: August 13, 2014

EXHIBIT INDEX

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