

Actavis plc
Form S-8
March 17, 2015

As filed with the Securities and Exchange Commission on March 17, 2015

Registration No. 333- []

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ACTAVIS PLC
(Exact name of registrant as specified in its charter)

Ireland
(State or other Jurisdiction of
Incorporation or Organization)

2834
(Primary Standard Industrial
Classification Code Number)
1 Grand Canal Square,

98-1114402
(I.R.S. Employer
Identification Number)

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Docklands, Dublin 2,

Ireland

(862) 261-7000

(Address of Principal Executive Offices)

Amended and Restated Allergan, Inc. 2011 Incentive Award Plan

Allergan, Inc. Savings and Investment Plan (Restated 2014), as amended

(Full Title of the Plans)

A. Robert D. Bailey

Chief Legal Officer and Corporate Secretary

Actavis plc

Morris Corporate Center III

400 Interpace Parkway

Parsippany, New Jersey 07054

(862) 261-7000

(Name, Address and Telephone Number, Including Area Code, of Agent for Service)

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 ☐

CALCULATION OF REGISTRATION FEE

| | | Proposed | | | |
|---|--|----------------------|-----------------------|-----------------------|-------------------------|
| | | Amount | Maximum | Proposed | |
| Title of Securities | | to be | Offering Price | Maximum | Amount of |
| to be Registered | Title of Plan | Registered(1) | Per Share(4) | Offering Price | Registration Fee |
| Ordinary Shares, par value \$0.0001 per share | Amended & Restated Allergan, Inc. 2011 Incentive Award Plan | 16,437,202(2) | \$297.60 | \$4,891,711,315 | \$568,416.85 |
| Ordinary Shares, par value \$0.0001 per share | Allergan, Inc. Savings and Investment Plan (Restated 2014), as amended | 1,500,000(3) | \$297.60 | \$446,400,000 | \$51,871.68 |

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the "Securities Act"), this registration statement (the "Registration Statement") also covers an indeterminate number of additional Ordinary Shares, par value \$0.0001 per share (Ordinary Shares), of Actavis plc, a public limited company organized under the laws of Ireland (the "Registrant"), which may be offered and issued to prevent dilution resulting from adjustments as a result of stock dividends, stock splits, reverse stock splits, recapitalizations, reclassifications, mergers, split-ups, reorganizations, consolidations and other capital adjustments.
- (2) Represents Ordinary Shares available for issuance under the Amended and Restated Allergan, Inc. 2011 Incentive Award Plan, which were assumed by the Registrant on March 17, 2015, in connection with the Agreement and Plan of Merger, dated as of November 16, 2014, by and among the Registrant, Allergan, Inc. (Allergan), and Avocado Acquisition Inc. (the "Merger Agreement").
- (3) Pursuant to Rule 416(c) under the Securities Act, this Registration Statement also covers an indeterminate number of plan interests to be offered or sold pursuant to the Allergan, Inc. Savings and Investment Plan (Restated 2014), as amended.
- (4) Estimated solely for the purposes of calculating the registration fee pursuant to Rules 457(c) and 457(h) under the Securities Act, based on the average of the high and low prices of the Ordinary Shares of the Registrant as reported on the New York Stock Exchange on March 13, 2015.

EXPLANATORY NOTE

Pursuant to the Merger Agreement, on March 17, 2015, Avocado Acquisition Inc., a Delaware corporation and an indirect wholly owned subsidiary of the Company (Merger Sub) merged with and into Allergan (the Merger), with Allergan continuing as the surviving corporation in the Merger (the Surviving Corporation). Actavis plc is referred to herein as we, our, us, Actavis, the Registrant, and the Company.

As of the effective time of the Merger, each outstanding share of Allergan common stock, par value \$0.01 per share, available for issuance under the Amended and Restated Allergan, Inc. 2011 Incentive Award Plan (the 2011 Plan) has been assumed by the Registrant and will be available for future issuance under the 2011 Plan in satisfaction of the vesting, exercise or other settlement of options and other equity awards that may be granted by the Registrant following the effective time of the Merger (after conversion of such shares and appropriate adjustment to reflect the transaction) in reliance on the prior approval of the 2011 Plan by the stockholders of Allergan; provided that, in accordance with the New York Stock Exchange Company Listed Manual and interpretative guidance thereunder, including, without limitation, Rule 303A.08, (A) the time during which such Ordinary Shares will be available for grants under the 2011 Plan will not be extended beyond the period when they would have been available under the 2011 Plan, absent the Merger, and (B) such options and other equity awards may not be granted to individuals who were employed, immediately prior to the effective time of the Merger, by the Registrant or any of its subsidiaries (exclusive of Allergan) immediately prior to the effective time of the Merger. This Registration Statement relates to the registration of 16,437,202 Ordinary Shares to be offered and sold under the 2011 Plan.

In addition, as of the effective time of the Merger, the Registrant assumed the Allergan, Inc. Savings and Investment Plan (Restated 2014), as amended (the Legacy Allergan 401(k) Plan) and is registering 1,500,000 Ordinary Shares to be offered and sold under the Legacy Allergan 401(k) Plan.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information specified in Items 1 and 2 of Part I of Form S-8 is omitted from this filing in accordance with the provisions of Rule 428 under the Securities Act and the introductory note to Part I of Form S-8. The documents containing the information specified in Part I will be delivered to the respective participants in the 2011 Plan or the Legacy Allergan 401(k) Plan covered by this Registration Statement, as required by Rule 428. Such 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.

The following documents, which previously have been filed by the Registrant with the Securities and Exchange Commission (the "Commission"), are incorporated herein by reference and made a part hereof:

- (a) The Registrant's Annual Report on Form 10-K for the year ended December 31, 2014, filed with the Commission on February 18, 2015;
- (b) Allergan's Annual Report on Form 11-K for the fiscal year ended December 31, 2013 with respect to the Allergan, Inc. Savings and Investment Plan (Restated 2013) (subsequently renamed the Allergan, Inc. Savings and Investment Plan (Restated 2014)) (File No. 001-10269);
- (c) The description of the Registrant's Ordinary Shares contained or incorporated by reference into the Company's Registration Statement on Form 8-A filed on March 16, 2015, including any amendment or report filed for the purpose of updating such description; and
- (c) All documents that the Registrant files pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, subsequent to the effective date of this Registration Statement (except for any portions of the Registrant's Current Reports on Form 8-K furnished pursuant to Item 2.02 or Item 7.01 thereof and any corresponding exhibits thereto not filed with Commission), but prior to the filing of a post-effective amendment to this Registration Statement indicating that all securities offered hereby have been sold or which deregisters all securities then 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 such documents.

For purposes of this Registration Statement, any document or any statement contained in a document incorporated or deemed to be incorporated herein by reference shall be deemed to be modified or superseded to the extent that a subsequently filed document or a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated herein by reference modifies or supersedes such document or such statement in such document. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

The Registrant's articles of association confer an indemnity on its directors and Secretary subject to the limitations prescribed by the Irish Companies Acts 1963-2013 (the Irish Companies Acts). Broadly, the relevant provisions in the Registrant's articles of association provide for an indemnity for certain persons, including directors, the Secretary, committee members, persons holding executive or official positions with the Registrant and employees, agents and persons acting in certain other capacities at the request of the Registrant (Indemnified Persons) who are a party to actions, suits or proceedings against expenses and costs in connection with such actions, suits or proceedings if such Indemnified Person acted in good faith and in a manner that he or she reasonably believed to be in or not opposed to the best interests of the Registrant. Indemnification is also excluded in circumstances where an Indemnified Person is adjudged liable for willful neglect or default in performance of his duties unless a relevant court determines otherwise. Such indemnification may include expense advancement in certain circumstances.

The Irish Companies Acts prescribe that an advance commitment to indemnify only permits a company to pay the costs or discharge the liability of a director or secretary where judgment is given in favor of the director or secretary in any civil or criminal action in respect of such costs or liability, or where an Irish court grants relief because the director or secretary acted honestly and reasonably and ought fairly to be excused. Any provision whereby an Irish company seeks to commit in advance to indemnify its directors or secretary over and above the limitations imposed by the Irish Companies Acts will be void, whether contained in its articles of association or any contract between the company and the director or secretary. This restriction does not apply to executives who are not directors or the secretary, or other persons who would not be considered "officers" within the meaning of that term under the Irish Companies Acts, of the Registrant.

Each of the Registrant's current directors, officers and the Secretary are party to individual indemnification agreements that provide for the indemnification of any claims relating to their services to the Registrant or any of its subsidiaries to the fullest extent permitted by applicable law.

The Registrant also maintains directors' and officers' liability insurance and fiduciary liability insurance covering certain liabilities that may be incurred by its directors and officers in the performance of their duties.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

For the list of exhibits, see the Exhibit Index to this Registration Statement, which is incorporated in this item 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;

(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 the 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 20% 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) 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 Exchange Act that are incorporated by reference in the Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, 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 undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act 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 Commission such indemnification is against public policy as expressed in the Securities Act 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 and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, 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 Parsippany, State of New Jersey on the 17th day of March 2015.

ACTAVIS plc

By: /s/ A. Robert D. Bailey
A. Robert D. Bailey
Chief Legal Officer and Corporate
Secretary

Each person whose signature appears below hereby constitutes and appoints A. Robert D. Bailey his attorney-in-fact, with the full power of substitution, for him in any and all capacities, to sign this Registration Statement, and any amendments thereto (including post-effective amendments), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Commission, hereby ratifying and confirming all that said attorney-in-fact, or his substitute or substitutes, may do or cause to be done by virtue hereof. Pursuant to the requirements of the Securities Act, this registration statement has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

| Signature | Title | Date |
|--|---|---------------|
| /s/ Paul M. Bisaro Paul M. Bisaro | Executive Chairman, Director | March 9, 2015 |
| /s/ Brent L. Saunders Brent L. Saunders | Chief Executive Officer, President, Director (Principal Executive Officer) | March 9, 2015 |
| /s/ Maria Teresa Hilado Maria Teresa Hilado | Chief Financial Officer (Principal Financial Officer) | March 9, 2015 |
| /s/ James D Arecca James D Arecca | Chief Accounting Officer (Principal Accounting Officer) | March 9, 2015 |
| /s/ Nesli Basgoz, M.D. Nesli Basgoz, M.D. | Director | March 9, 2015 |
| /s/ James H. Bloem James H. Bloem | Director | March 9, 2015 |
| /s/ Christopher W. Bodine Christopher W. Bodine | Director | March 9, 2015 |

| | | |
|--|----------|---------------|
| /s/ Christopher J. Coughlin Christopher J. Coughlin | Director | March 9, 2015 |
| /s/ Tamar D. Howson Tamar D. Howson | Director | March 9, 2015 |
| /s/ John A. King, Ph.D. John A. King, Ph.D. | Director | March 9, 2015 |
| /s/ Catherine M. Klema Catherine M. Klema | Director | March 9, 2015 |
| /s/ Jiri Michal Jiri Michal | Director | March 9, 2015 |
| /s/ Patrick J. O Sullivan Patrick J. O Sullivan | Director | March 9, 2015 |
| Ronald R. Taylor | Director | |
| Andrew L. Turner | Director | |
| /s/ Fred G. Weiss Fred G. Weiss | Director | March 9, 2015 |

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the trustees (or other persons who administer the Allergan, Inc. Savings and Investment Plan (Restated 2014), as amended) have duly caused this Registration Statement to be signed on their behalf by the undersigned, thereunto duly authorized, in the City of Parsippany, State of New Jersey on the 17th day of March 2015.

Allergan, Inc. Savings and Investment Plan

(Restated 2014), as amended

By: /s/ Karen L. Ling
Karen L. Ling

Chief Human Resources Officer

EXHIBIT INDEX

| Exhibit Number | Exhibit Description | Method of Filing |
|-----------------------|--|--|
| 3.1 | Certificate of Incorporation of Actavis plc | Incorporated by reference to Exhibit 3.1 of the Registrant's Current Report on Form 8-K, filed with the Commission on October 2, 2013 |
| 3.2 | Amended and Restated Memorandum and Articles of Association of Actavis plc | Incorporated by reference to Exhibit 3.2 of the Registrant's Current Report on Form 8-K, filed with the Commission on October 2, 2013 |
| 4.1 | Specimen Share Certificate of Actavis plc | Incorporated by reference to Exhibit 4.1 of the Registrant's Registration Statement on Form S-8 (No. 333-191487), filed with the Commission on October 1, 2013 |
| 5.1 | Opinion of Arthur Cox | Filed herewith |
| 5.2 | Internal Revenue Service Determination Letter dated March 25, 2014 | Filed herewith |
| 23.1 | Consent of Arthur Cox (included as part of Exhibit 5.1) | Filed herewith |
| 23.2 | Consent of PricewaterhouseCoopers LLP, independent registered public accounting firm for Actavis plc | Filed herewith |
| 23.3 | Consent of PricewaterhouseCoopers LLP, independent registered public accounting firm for Warner Chilcott Limited | Filed herewith |
| 23.4 | Consent of Ernst & Young LLP Independent Registered Public Accounting Firm for Allergan, Inc. | Filed herewith |
| 23.5 | Consent of Lesley, Thomas, Schwarz & Postma, Inc., Independent Registered Public Accounting Firm | Filed herewith |
| 24.1 | Power of Attorney | Included with the signature page to this Registration Statement) |
| 99.1 | Amended and Restated Allergan, Inc. 2011 Incentive Award Plan | Incorporated by reference to Exhibit 99.5 of the Registrant's Post-Effective Amendment No. 1 on Form S-8 to Form S-4 (No. 333-201242), filed with the Commission on March 17, 2015 |
| 99.2 | Allergan, Inc. Savings and Investment Plan (Restated 2014), as amended | Filed herewith |

| | | |
|------|--|----------------|
| 99.3 | First Amendment to Allergan, Inc. Savings and Investment Plan (Restated 2014) | Filed herewith |
| 99.4 | Second Amendment to Allergan, Inc. Savings and Investment Plan (Restated 2014) | Filed herewith |
| 99.5 | Third Amendment to Allergan, Inc. Savings and Investment Plan (Restated 2014) | Filed herewith |
| 99.6 | Fourth Amendment to Allergan, Inc. Savings and Investment Plan (Restated 2014) | Filed herewith |