MEDICIS PHARMACEUTICAL CORP
Form 10-Q
May 11, 2009

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549
FORM 10-Q

þ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended March 31, 2009

OR

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from __________ to __________

Commission file number: 001-14471

MEDICIS PHARMACEUTICAL CORPORATION

(Exact name of Registrant as specified in its charter)

Delaware	52-1574808
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

7720 North Dobson Road
Scottsdale, Arizona 85256-2740

(Address of principal executive offices)
(602) 808-8800

(Registrant s telephone number, including area code)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.
Yes þ No o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes o No o

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 þ	Accelerated filer o	Non-accelerated filer o (do not check if a smaller reporting company)	Smaller reporting company o

Indicate by check mark whether the registrant is a shell company (as defined in Exchange Act Rule 12b-2)
Yes o No þ

Indicate the number of shares outstanding of each of the issuer s classes of common stock, as of the latest practicable date.

Class	Outstanding at May 7, 2009
Class A Common Stock $.014 Par Value	58,845,961 (a)

(a) includes 2,025,994 shares of unvested restricted stock awards

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Part I. Financial Information
Item 1. Financial Statements

MEDICIS PHARMACEUTICAL CORPORATION
CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands, except share amounts)

	March 31, 2009 (unaudited)	December 31, 2008
Assets		
Current assets:		
Cash and cash equivalents	$ 138,832	$ 86,450
Short-term investments	260,524	257,435
Accounts receivable, net	50,913	52,588
Inventories, net	25,351	24,226
Deferred tax assets, net	66,058	53,161
Other current assets	20,879	19,676
Total current assets	562,557	493,536
Property and equipment, net	26,558	26,300
Intangible assets:		
Intangible assets related to product line acquisitions and business combinations	267,624	267,624
Other intangible assets	7,899	7,752
	275,523	275,376
Less: accumulated amortization	119,462	113,947
Net intangible assets	156,061	161,429
Goodwill	156,776	156,762
Deferred tax assets, net	73,540	77,149
Long-term investments	40,378	55,333
Other assets	39	2,925
	$ 1,015,909	$ 973,434

See accompanying notes to condensed consolidated financial statements.

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MEDICIS PHARMACEUTICAL CORPORATION
CONDENSED CONSOLIDATED BALANCE SHEETS, Continued
(in thousands, except share amounts)

	March 31, 2009 (unaudited)	December 31, 2008
Liabilities		
Current liabilities:		
Accounts payable	$ 43,752	$ 39,032
Reserve for sales returns	68,406	59,611
Income taxes payable	4,440	
Other current liabilities	113,867	87,258
Total current liabilities	230,465	185,901
Long-term liabilities:		
Contingent convertible senior notes	169,326	169,326
Deferred revenue	3,542	4,167
Other liabilities	8,174	10,346
Stockholders Equity		
Preferred stock, $0.01 par value; shares authorized: 5,000,000; no shares issued		
Class A common stock, $0.014 par value; shares authorized: 150,000,000; issued and outstanding: 69,488,936 and 69,396,394 at March 31, 2009 and December 31, 2008, respectively	969	969
Class B common stock, $0.014 par value; shares authorized: 1,000,000; issued and outstanding: none		
Additional paid-in capital	664,776	661,703
Accumulated other comprehensive income	2,106	2,106
Accumulated earnings	280,263	282,284
Less: Treasury stock, 12,711,063 and 12,678,559 shares at cost at March 31, 2009 and December 31, 2008, respectively	(343,712)	(343,368)
Total stockholders equity	604,402	603,694
	$ 1,015,909	$ 973,434

See accompanying notes to condensed consolidated financial statements.

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MEDICIS PHARMACEUTICAL CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(unaudited)
(in thousands, except per share data)

	Three Months Ended March 31, 2009	Three Months Ended March 31, 2008
Net product revenues	$ 96,600	$ 125,054
Net contract revenues	3,219	3,849
Net revenues	99,819	128,903
Cost of product revenues (1)	9,446	11,132
Gross profit	90,373	117,771
Operating expenses:		
Selling, general and administrative (2)	70,425	72,062
Research and development (3)	13,275	9,189
Depreciation and amortization	7,132	6,722
Operating (loss) income	(459)	29,798
Other expense, net	2,873	2,871
Interest and investment income	(2,487)	(9,199)
Interest expense	1,054	2,407
(Loss) income before income tax expense	(1,899)	33,719
Income tax (benefit) expense	(2,228)	13,194
Net income	$ 329	$ 20,525
Basic net income per share	$ 0.01	$ 0.36
Diluted net income per share	$ 0.01	$ 0.31
Cash dividend declared per common share	$ 0.04	$ 0.04

Weighted average number of common shares used in calculating:		
Basic net income per share	56,731	56,358
Diluted net income per share	56,867	70,332
(1) amounts exclude amortization of intangible assets related to acquired products	$ 5,443	$ 5,286
(2) amounts include share-based compensation expense	$ 3,733	$ 4,329
(3) amounts include share-based compensation expense	$ 139	$ 61

See accompanying notes to condensed consolidated financial statements.

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MEDICIS PHARMACEUTICAL CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited)
(in thousands)

	Three Months Ended March 31, 2009	Three Months Ended March 31, 2008
Operating Activities:		
Net income	$ 329	$ 20,525
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	7,132	6,722
Amortization of deferred financing fees		285
Adjustment of impairment of available-for-sale investments	(13)	
Charge reducing value of investment in Revance	2,886	2,871
Gain on sale of available-for-sale investments, net	(10)	(117)
Share-based compensation expense	3,872	4,390
Deferred income tax (benefit) expense	(10,680)	4,997
Tax expense from exercise of stock options and vesting of restricted stock awards	(644)	(354)
Excess tax benefits from share-based payment arrangements		(10)
Increase in provision for sales discounts and chargebacks	144	519
Accretion (amortization) of (discount)/premium on investments	516	(773)
Changes in operating assets and liabilities:		
Accounts receivable	1,531	(12,284)
Inventories	(1,125)	3,277
Other current assets	(1,203)	(6,497)
Accounts payable	4,720	17,863
Reserve for sales returns	8,795	(689)
Income taxes payable	4,440	(1,651)
Other current liabilities	26,016	(5,083)
Other liabilities	(1,308)	(888)
Net cash provided by operating activities	45,398	33,103
Investing Activities:		
Purchase of property and equipment	(1,875)	(3,898)
Payments for purchase of product rights	(161)	(33)
Purchase of available-for-sale investments	(74,264)	(247,967)
Sale of available-for-sale investments	30,494	151,451
Maturity of available-for-sale investments	55,029	161,975
Net cash provided by investing activities	9,223	61,528
Financing Activities:		
Payment of dividends	(2,313)	(1,707)
Excess tax benefits from share-based payment arrangements		10
Proceeds from the exercise of stock options		765

Net cash used in financing activities	(2,313)	(932)
Effect of exchange rate on cash and cash equivalents	74	(97)
Net increase in cash and cash equivalents	52,382	93,602
Cash and cash equivalents at beginning of period	86,450	108,046
Cash and cash equivalents at end of period	$ 138,832	$ 201,648

See accompanying notes to condensed consolidated financial statements.

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MEDICIS PHARMACEUTICAL CORPORATION
NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
March 31, 2009
(unaudited)

1. NATURE OF BUSINESS

Medicis Pharmaceutical Corporation (Medicis or the Company) is a leading specialty pharmaceutical company focusing primarily on the development and marketing of products in the United States (U.S.) for the treatment of dermatological, aesthetic and podiatric conditions. Medicis also markets products in Canada for the treatment of dermatological and aesthetic conditions and began commercial efforts in Europe with the Company s acquisition of LipoSonix, Inc. (LipoSonix) in July 2008.

The Company offers a broad range of products addressing various conditions or aesthetic improvements including facial wrinkles, acne, fungal infections, rosacea, hyperpigmentation, photoaging, psoriasis, seborrheic dermatitis and cosmesis (improvement in the texture and appearance of skin). Medicis currently offers 18 branded products. Its primary brands are PERLANE®, RESTYLANE®, SOLODYN®, TRIAZ®, VANOS® and ZIANA®. Medicis entered the non-invasive fat ablation market with its acquisition of LipoSonix in July 2008. In addition, as discussed in Note 17, on April 29, 2009, the FDA approved DYSPORT™, which Medicis will market in the U.S. for the aesthetic indication of glabellar lines.

The consolidated financial statements include the accounts of Medicis and its wholly owned subsidiaries. The Company does not have any subsidiaries in which it does not own 100% of the outstanding stock. All of the Company s subsidiaries are included in the consolidated financial statements. All significant intercompany accounts and transactions have been eliminated in consolidation.

The accompanying interim condensed consolidated financial statements of Medicis have been prepared in conformity with U.S. generally accepted accounting principles, consistent in all material respects with those applied in the Company s Annual Report on Form 10-K for the year ended December 31, 2008. The financial information is unaudited, but reflects all adjustments, consisting only of normal recurring adjustments and accruals, which are, in the opinion of the Company s management, necessary to a fair statement of the results for the interim periods presented. Interim results are not necessarily indicative of results for a full year. The information included in this Form 10-Q should be read in conjunction with the Company s Annual Report on Form 10-K for the year ended December 31, 2008.

2. SHARE-BASED COMPENSATION

Stock Option and Restricted Stock Awards

At March 31, 2009, the Company had seven active share-based employee compensation plans. Of these seven share-based compensation plans, only the 2006 Incentive Award Plan is eligible for the granting of future awards. Stock option awards granted from these plans are granted at the fair market value on the date of grant. The option awards vest over a period determined at the time the options are granted, ranging from one to five years, and generally have a maximum term of ten years. Certain options provide for accelerated vesting if there is a change in control (as defined in the plans). When options are exercised, new shares of the Company s Class A common stock are issued. Effective July 1, 2005, the Company adopted Statement of Financial Accounting Standards (SFAS) No. 123R, *Share-Based Payment*, using the modified prospective method. Other than restricted stock, no share-based employee compensation cost has been reflected in net income prior to the adoption of SFAS No. 123R.

The total value of the stock option awards is expensed ratably over the service period of the employees receiving the awards. As of March 31, 2009, total unrecognized compensation cost related to stock option awards, to be recognized as expense subsequent to March 31, 2009, was approximately $4.4 million and the related weighted-average period over which it is expected to be recognized is approximately 1.3 years.

A summary of stock option activity within the Company s stock-based compensation plans and changes for the three months ended March 31, 2009 is as follows:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value
Balance at December 31, 2008	10,707,357	$27.98		
Granted	77,017	$11.28		
Exercised		$		
Terminated/expired	(141,367)	$30.83		
Balance at March 31, 2009	10,643,007	$27.82	3.5	$952,959

Options exercisable under the Company s share-based compensation plans at March 31, 2009 were 9,703,841, with a weighted average exercise price of $27.38, a weighted average remaining contractual term of 3.3 years, and an aggregate intrinsic value of $869,010.

A summary of fully vested stock options and stock options expected to vest, based on historical forfeiture rates, as of March 31, 2009, is as follows:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value
Outstanding	9,736,889	$27.99	3.6	$783,300
Exercisable	8,880,402	$27.56	3.4	$714,240

The fair value of each stock option award is estimated on the date of the grant using the Black-Scholes option pricing model with the following assumptions:

	Three Months Ended March 31, 2009	Three Months Ended March 31, 2008
Expected dividend yield	0.35%	0.6%
Expected stock price volatility	0.45	0.38
Risk-free interest rate	2.2%	3.0%
Expected life of options	7 Years	7 Years

The expected dividend yield is based on expected annual dividends to be paid by the Company as a percentage of the market value of the Company s stock as of the date of grant. The Company determined that a blend of implied volatility and historical volatility is more reflective of market conditions and a better indicator of expected volatility than using purely historical volatility. The risk-free interest rate is based on the U.S. treasury security rate in effect as of the date of grant. The expected lives of options are based on historical data of the Company.

The weighted average fair value of stock options granted during the three months ended March 31, 2009 and 2008 was $5.32 and $8.19, respectively.

The Company also grants restricted stock awards to certain employees. Restricted stock awards are valued at the closing market value of the Company s Class A common stock on the date of grant, and the total value of the award is expensed ratably over the service period of the employees receiving the grants. During the three months ended March 31, 2009, 975,173 shares of restricted stock were granted to certain employees. Share-based compensation expense related to all restricted stock awards outstanding during the three months ended March 31, 2009 and 2008, was approximately $1.8 million and $1.1 million, respectively. As of March 31, 2009, the total amount of unrecognized compensation cost related to nonvested restricted stock awards, to be recognized as expense subsequent to March 31, 2009, was approximately $31.8 million, and the related weighted-average period over which it is expected to be recognized is approximately 3.6 years.

A summary of restricted stock activity within the Company s share-based compensation plans and changes for the three months ended March 31, 2009 is as follows:

Nonvested Shares	Shares	Weighted-Average Grant-Date Fair Value
Nonvested at December 31, 2008	1,204,851	$23.38
Granted	975,173	$11.28
Vested	(92,572)	$28.11
Forfeited	(4,478)	$24.87
Nonvested at March 31, 2009	2,082,974	$17.50

The total fair value of restricted shares vested during the three months ended March 31, 2009 and 2008 was approximately $2.6 million and $2.1 million, respectively.

Stock Appreciation Rights

On February 27, 2009, the Company granted 2,013,832 cash-settled stock appreciation rights (SARs) to certain employees. SARs generally vest over a graduated five-year period and expire seven years from the date of grant, unless such expiration occurs sooner due to the employee s termination of employment, as provided in the applicable SAR award agreement. SARs allow the holder to receive cash (less applicable tax withholding) upon the holder s exercise, equal to the excess, if any, of the market price of the Company s Class A common stock on the exercise date over the exercise price, multiplied by the number of shares relating to the SAR with respect to which the SAR is exercised. The exercise price of the SAR is the fair market value of a share of the Company s Class A common stock relating to the SAR on the date of grant. The total value of the SARs is expensed over the service period of the employees receiving the grants, and a liability is recognized in the Company s condensed consolidated balance sheets until settled. SFAS No. 123R requires the fair value of SARs to be remeasured at the end of each reporting period until the award is settled, and changes in fair value must be recognized as compensation expense to the extent of vesting each reporting period based on the new fair value. Share-based compensation expense related to SARs during the three months ended March 31, 2009 was approximately $0.2 million. As of March 31, 2009, the total measured amount of unrecognized compensation cost related to outstanding SARs, to be recognized as expense subsequent to March 31, 2009, was approximately $12.7 million, and the related weighted-average period over which it is expected to be recognized is approximately 4.9 years.

The fair value of each SAR is estimated on the date of the grant, and at the end of each reporting period, using the Black-Scholes option pricing model with the following assumptions:

	SARs Granted During the Three Months Ended March 31, 2009	Remeasurement as of March 31, 2009
Expected dividend yield	0.35%	1.29%

Expected stock price volatility	0.45	0.48
Risk-free interest rate	2.2%	2.3%
Expected life of SARs	7.0 Years	6.9 Years

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A summary of SARs activity for the three months ended March 31, 2009 is as follows:

	Number of SARs	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value
Balance at December 31, 2008		$		
Granted	2,013,832	$11.28		
Exercised		$		
Terminated/expired		$		
Balance at March 31, 2009	2,013,832	$11.28	6.9	$2,195,077

No SARs were exercisable as of March 31, 2009.

3. SHORT-TERM AND LONG-TERM INVESTMENTS

The Company s policy for its short-term and long-term investments is to establish a high-quality portfolio that preserves principal, meets liquidity needs, avoids inappropriate concentrations and delivers an appropriate yield in relationship to the Company s investment guidelines and market conditions. Short-term and long-term investments consist of corporate and various government agency and municipal debt securities. The Company s investments in auction rate floating securities consist of investments in student loans. Management classifies the Company s short-term and long-term investments as available-for-sale. Available-for-sale securities are carried at fair value with unrealized gains and losses reported in stockholders equity. Realized gains and losses and declines in value judged to be other than temporary, if any, are included in other expense in the condensed consolidated statement of operations. A decline in the market value of any available-for-sale security below cost that is deemed to be other than temporary, results in impairment of the fair value of the investment. The impairment is charged to earnings and a new cost basis for the security is established. Premiums and discounts are amortized or accreted over the life of the related available-for-sale security. Dividends and interest income are recognized when earned. The cost of securities sold is calculated using the specific identification method. At March 31, 2009, the Company has recorded the estimated fair value in available-for-sale securities for short-term and long-term investments of approximately $260.5 million and $40.4 million, respectively.

Available-for-sale and trading securities consist of the following at March 31, 2009 (amounts in thousands):

March 31, 2009

October 31, 2015

Mutual funds
$
2,656,141

$
2,656,141

$
—

$
—

Common/collective trusts
4,798,946

—

4,798,946

—

Common Stock - The Laclede Group, Inc.
2,224,307

2,224,307

—

—

Stock purchase account

360

360

—

—

Total investments in the fair value hierarchy
$
9,679,754

$
4,880,808

$
4,798,946

$
—

Common/collective trusts measured at NAV*
53,016

Total investments
$
9,732,770

*

Certain investments that are measured at fair value using the NAV per share (or its equivalent) as a practical expedient have not been categorized in the fair value hierarchy. The fair value amounts presented in this table are intended to permit reconciliation of the fair value hierarchy to the amounts presented on the Statements of Net Assets Available for Benefits.

4. TAX STATUS

The Internal Revenue Service ("IRS") has determined and informed the Company by a letter dated July 29, 2015 that the Plan and related trust are designed in accordance with the applicable sections of the IRC and therefore not subject to tax. However, the letter was issued contingent upon adopting certain proposed amendments. These amendments were not timely adopted, and a Voluntary Correction Program filing has been submitted to the IRS for which the Plan is awaiting approval. Any related penalties or fines will be paid for by the Company and there will be no financial impact to the Plan. Although the Plan has been amended since receiving the determination letter, the Plan Administrator and the Plan's tax counsel believe that the plan is designed and is currently being operated in compliance with the applicable requirements of the IRC.

5. PLAN TERMINATION

Although it has not expressed any intent to do so, the Company has the right under the Plan to discontinue its contributions at any time and to terminate the Plan subject to the provisions set forth in ERISA.

6. RELATED-PARTY TRANSACTIONS

The Plan allows for transactions with certain parties who may perform services or have fiduciary responsibilities to the Plan, including the Company. These transactions qualify as party-in-interest transactions. The Company provides certain administrative services at no cost to the Plan. The Plan incurs expenses related to general administration and recordkeeping. The Company pays a portion of these expenses and certain accounting and auditing fees related to the Plan. The Plan paid $838 and $1,269 of recordkeeping fees to the trustee in 2016 and 2015, respectively. At October 31, 2016 and 2015, the Plan held 40,181.537 and 37,976.901 shares, respectively, of common stock of Spire Inc., the Company’s parent, with a market basis of $2,523,401 and $2,224,307, respectively. During the years ended October 31, 2016 and 2015, the Plan received dividend income of $76,804 and $69,965, respectively, from Spire Inc.

SIGNATURES

The Plan. Pursuant to the requirements of the Securities Exchange Act of 1934, the Company has duly caused this annual report to be signed on its behalf by the undersigned hereunto duly authorized.

	Missouri Natural Gas Division of Laclede Gas Company Wage Deferral Savings Plan	
Date: April 12, 2017	By:	/s/ Gerard J. Gorla Gerard J. Gorla Vice President, Human Resources

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EXHIBIT INDEX

Exhibit No.	
23	Consent of Independent Registered Public Accounting Firm