AKORN INC
Form 10-Q
May 16, 2016

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 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, 2016

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: 001-32360

AKORN, INC.
(Exact Name of Registrant as Specified in its Charter)

| | |
|---|---|
| LOUISIANA | 72-0717400 |
| (State or Other Jurisdiction of Incorporation or Organization) | (I.R.S. Employer Identification No.) |

| | |
|---|---|
| 1925 W. Field Court, Suite 300 | |
| Lake Forest, Illinois | 60045 |
| (Address of Principal Executive Offices) | (Zip Code) |

(847) 279-6100
(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 o No þ

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 (§ 229.405 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 þ

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. (Check one):

Accelerated filer o Non-accelerated filer o

| Large accelerated filer þ | | Smaller reporting company o |
|---|---|---|
| | (Do not check if a smaller reporting company) | |

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yeso Noþ

At May 6, 2016, there were 119,427,471 shares of common stock, no par value, outstanding.

[1]

[2]

PART I. FINANCIAL INFORMATION
Item 1. Financial Statements.
AKORN, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(In Thousands, Except Per Share Data)

| | March 31, 2016 (Unaudited) | December 31, 2015 |
|---|---|---|
| ASSETS | | |
| CURRENT ASSETS | | |
| Cash and cash equivalents | $140,998 | $346,266 |
| Trade accounts receivable, net | 172,183 | 150,621 |
| Inventories, net | 190,869 | 185,316 |
| Available for sale security, current | 4,901 | 5,941 |
| Prepaid expenses and other current assets | 21,069 | 19,988 |
| TOTAL CURRENT ASSETS | 530,020 | 708,132 |
| PROPERTY, PLANT AND EQUIPMENT, NET | 186,258 | 179,614 |
| OTHER LONG-TERM ASSETS | | |
| Goodwill | 284,716 | 284,710 |
| Product licensing rights, net | 638,858 | 653,628 |
| Other intangibles, net | 210,453 | 211,361 |
| Deferred tax assets | 4,381 | 4,207 |
| Long-term investments | 130 | 129 |
| Other non-current assets | 1,031 | 764 |
| TOTAL OTHER LONG-TERM ASSETS | 1,139,569 | 1,154,799 |
| TOTAL ASSETS | $1,855,847 | $2,042,545 |
| LIABILITIES AND SHAREHOLDERS' EQUITY | | |
| CURRENT LIABILITIES | | |
| Trade accounts payable | $45,929 | $46,019 |
| Purchase consideration payable | 4,974 | 4,967 |
| Income taxes payable | 13,247 | 23,670 |
| Accrued royalties | 13,724 | 19,378 |
| Accrued compensation | 16,156 | 15,866 |
| Current maturities of long-term debt (net of current deferred financing costs) | 42,857 | 52,779 |
| Accrued administrative fees | 31,399 | 37,094 |
| Accrued expenses and other liabilities | 26,287 | 31,603 |
| TOTAL CURRENT LIABILITIES | 194,573 | 231,376 |
| LONG-TERM LIABILITIES: | | |
| Long-term debt (net of non-current deferred financing costs) | 807,142 | 994,033 |
| Deferred tax liability | 180,610 | 188,808 |
| Lease incentive obligations and other long-term liabilities | 6,935 | 6,763 |
| TOTAL LONG-TERM LIABILITIES | 994,687 | 1,189,604 |
| TOTAL LIABILITIES | 1,189,260 | 1,420,980 |
| SHAREHOLDERS' EQUITY | | |
| Common stock, no par value – 150,000,000 shares authorized; 119,427,471 and 119,427,471 shares issued and outstanding at March 31, 2016 and December 31, 2015, respectively | 461,580 | 458,659 |
| Retained earnings | 221,934 | 180,048 |
| Accumulated other comprehensive loss | (16,927) | (17,142) |

| | | |
|---|---|---|
| TOTAL SHAREHOLDERS' EQUITY | 666,587 | 621,565 |
| TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY | $1,855,847 | $2,042,545 |

See notes to condensed consolidated financial statements.

[3]

AKORN, INC.
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(In Thousands, Except Per Share Data)
(Unaudited)

| | Three Months Ended March 31, | |
|---|---|---|
| | 2016 | 2015 |
| Revenues | $268,347 | $227,378 |
| Cost of sales (exclusive of amortization of intangibles, included within operating expenses below) | 105,330 | 97,215 |
| GROSS PROFIT | 163,017 | 130,163 |
| | | |
| Selling, general and administrative expenses | 49,086 | 29,986 |
| Acquisition-related costs | 197 | 1,257 |
| Research and development expenses | 9,479 | 9,276 |
| Amortization of intangible assets | 16,518 | 16,377 |
| Impairment of intangible assets | 158 | — |
| | | |
| TOTAL OPERATING EXPENSES | 75,438 | 56,896 |
| | | |
| OPERATING INCOME | 87,579 | 73,267 |
| Amortization of deferred financing costs | (6,311) | (996) |
| Interest expense, net | (11,518) | (13,480) |
| Bargain purchase gain | — | 849 |
| Other non-operating expense, net | (3,178) | (1,312) |
| | | |
| INCOME BEFORE INCOME TAXES | 66,572 | 58,328 |
| Income tax provision | 24,686 | 20,790 |
| | | |
| CONSOLIDATED NET INCOME | $41,886 | $37,538 |
| CONSOLIDATED NET INCOME PER SHARE | | |
| CONSOLIDATED NET INCOME PER SHARE, BASIC | $0.35 | $0.33 |
| CONSOLIDATED NET INCOME PER SHARE, DILUTED | $0.34 | $0.31 |
| | | |
| SHARES USED IN COMPUTING NET INCOME PER SHARE | | |
| BASIC | 119,516 | 113,352 |
| DILUTED | 125,621 | 125,377 |
| | | |
| COMPREHENSIVE INCOME | | |
| Consolidated net income | $41,886 | $37,538 |
| Unrealized holding gain (loss) on available-for-sale securities, net of tax of $386 and ($59) for the three month periods ended March 31, 2016 and 2015, respectively. | (654) | 101 |
| Foreign currency translation income (loss), net of tax of ($447) and ($1,034) for the three month periods ended March 31, 2016 and 2015, respectively. | 869 | 2,008 |
| COMPREHENSIVE INCOME | $42,101 | $39,647 |

See notes to condensed consolidated financial statements.

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AKORN, INC.
CONDENSED CONSOLIDATED STATEMENT OF SHAREHOLDERS' EQUITY
FOR THE THREE MONTHS ENDED MARCH 31, 2016
(In Thousands)
(Unaudited)

| | Shares | Common Stock | Retained Earnings | Other Comprehensive (Loss) Income | Total |
|---|---|---|---|---|---|
| BALANCES AT DECEMBER 31, 2015 | 119,427 | $458,659 | $180,048 | $ (17,142) | $621,565 |
| Consolidated net income | — | — | 41,886 | — | 41,886 |
| Compensation and share issuances related to restricted stock awards | — | 872 | — | — | 872 |
| Stock-based compensation expense | — | 2,049 | — | — | 2,049 |
| Foreign currency translation gain (loss) | — | — | — | 869 | 869 |
| Unrealized holding gain (loss) on available-for-sale securities | — | — | — | (654) | (654) |
| BALANCES AT MARCH 31, 2016 | 119,427 | $461,580 | $221,934 | $ (16,927) | $666,587 |

See notes to condensed consolidated financial statements.

[5]

AKORN, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In Thousands)
(Unaudited)

| | Three months ended March 31, | |
|---|---|---|
| | 2016 | 2015 |
| OPERATING ACTIVITIES: | | |
| Consolidated net income | $41,886 | $37,538 |
| Adjustments to reconcile consolidated net income to net cash provided by operating activities: | | |
| Depreciation and amortization | 22,468 | 21,109 |
| Amortization of debt financing costs | 6,311 | 996 |
| Impairment of intangible assets | 158 | — |
| Amortization of favorable contracts | — | 18 |
| Amortization of inventory step-up | — | 4,682 |
| Non-cash stock compensation expense | 2,921 | 2,974 |
| Non-cash interest expense | 454 | 1,186 |
| Gain from product divestiture | — | — |
| Deferred income taxes, net | (8,009) | (9,186) |
| Excess tax benefit from stock compensation | — | (29,944) |
| Non-cash gain on bargain purchase | — | (849) |
| Loss on extinguishment of debt | — | 98 |
| Loss on sale of AFS securities | — | 146 |
| Changes in operating assets and liabilities, net of acquisition: | | |
| Trade accounts receivable | (21,355) | 384 |
| Inventories, net | (5,928) | (14,559) |
| Prepaid expenses and other current assets | (1,190) | 2,896 |
| Trade accounts payable | (1,948) | 7,916 |
| Accrued expenses and other liabilities | (26,783) | 19,861 |
| NET CASH PROVIDED BY OPERATING ACTIVITIES | $8,985 | $45,266 |
| INVESTING ACTIVITIES: | | |
| Payments for acquisitions and equity investments, net of cash acquired | — | (24,637) |
| Proceeds from disposal of assets | — | 2,358 |
| Payments for other intangible assets | (1,000) | — |
| Purchases of property, plant and equipment | (9,918) | (7,088) |
| NET CASH USED IN INVESTING ACTIVITIES | $(10,918) | $(29,367) |
| FINANCING ACTIVITIES: | | |
| Proceeds under stock option and stock purchase plans | — | 10,958 |
| Debt financing costs | (3,571) | — |
| Proceeds under borrowings | — | — |
| Consideration paid | — | (1,500) |
| Debt repayment | (200,000) | (2,613) |
| Excess tax benefit from stock compensation | — | 29,944 |
| NET CASH PROVIDED BY (USED IN) FINANCING ACTIVITIES | $(203,571) | $36,789 |
| Effect of exchange rate changes on cash and cash equivalents | 236 | 165 |
| INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS | $(205,268) | $52,853 |
| Cash and cash equivalents at beginning of period | 346,266 | 70,679 |
| CASH AND CASH EQUIVALENTS AT END OF PERIOD | $140,998 | $123,532 |
| SUPPLEMENTAL DISCLOSURES: | | |

| | | |
|---|---|---|
| Amount paid for interest | $10,613 | $11,836 |
| Amount paid for income taxes, net of refunds received | $43,075 | $238 |

See notes to condensed consolidated financial statements.

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AKORN, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

NOTE 1 — BUSINESS AND BASIS OF PRESENTATION

Business: Akorn, Inc., together with its wholly-owned subsidiaries (collectively “Akorn”, the “Company”, “we”, “our” or “us”) is a specialty generic pharmaceutical company that develops, manufactures and markets generic and branded prescription pharmaceuticals and branded as well as private-label over-the-counter consumer health products and animal health pharmaceuticals. We are an industry leader in the development, manufacturing and marketing of specialized generic pharmaceutical products in alternative dosage forms. We specialize in difficult-to-manufacture sterile and non-sterile dosage forms including, but not limited to, ophthalmics, injectables, oral liquids, otics, topicals, inhalants and nasal sprays.

Akorn is a Louisiana corporation founded in 1971 in Abita Springs, Louisiana. In 1997, we relocated our corporate headquarters to the Chicago, Illinois area and currently maintain our principal corporate offices in Lake Forest, Illinois. We operate pharmaceutical manufacturing facilities in Decatur, Illinois; Somerset, New Jersey; Amityville, New York; Hettlingen, Switzerland; and Paonta Sahib, Himachal Pradesh, India. We also operate a central distribution warehouse in Gurnee, Illinois and additional distribution facilities in Amityville, New York and Decatur, Illinois. Our research and development (“R&D”) centers are located in Vernon Hills, Illinois; Copiague, New York; and Warminster, Pennsylvania. We also have other corporate offices in Ann Arbor, Michigan and Gurgaon, Haryana, India.

For further detail concerning our reportable segments please see Note 10 “Segment Information.”

Our common shares are traded on The NASDAQ Global Select Market under the ticker symbol AKRX.

Basis of Presentation: The Company’s financial statements have been prepared in accordance with accounting principles generally accepted in the United States for interim financial information and accordingly do not include all the information and footnotes required by accounting principles generally accepted in the United States of America for complete financial statements. In the opinion of management, all adjustments of a normal and recurring nature considered necessary for a fair presentation have been included in these financial statements. Operating results for the three months ended March 31, 2016 are not necessarily indicative of the results that may be expected for the full year. For further information, refer to the condensed consolidated financial statements and footnotes for the year ended December 31, 2015, included in the Company’s Annual Report on Form 10-K filed on May 10, 2016.

The Company has considered the accounting and disclosure of events occurring after the balance sheet date of March 31, 2016 through the filing date of this Form 10-Q.
Certain prior-period amounts have been reclassified to conform to current-period presentation.

NOTE 2 — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Consolidation: The accompanying condensed consolidated financial statements include the accounts of Akorn, Inc. and its wholly owned domestic and foreign subsidiaries. All inter-company transactions and balances have been eliminated in consolidation, and the financial statements of Akorn India Private Limited ("AIPL") and Akorn AG (formerly "Excelvision AG" or "Hettlingen") have been translated from Indian Rupees to U.S. Dollars and Swiss Francs to U.S. dollars, respectively based on the currency translation rates in effect during the period or as of the date of consolidation, as applicable. The Company has no involvement with variable interest entities.

Use of Estimates: The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ materially from those estimates.

Significant estimates and assumptions for the Company relate to the allowances for chargebacks, rebates, product returns, coupons, promotions and doubtful accounts, as well as the reserve for slow-moving and obsolete inventories, the carrying value and lives of intangible assets, the useful lives of fixed assets, the carrying value of deferred income tax assets and liabilities, the assumptions underlying share-based compensation, accrued but unreported employee benefit costs and assumptions underlying the accounting for business combinations.

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Revenue Recognition: Revenue is recognized when persuasive evidence of an arrangement exists, delivery has occurred or services have been rendered, the sales price is fixed or determinable, and collectability is reasonably assured. Revenue from product sales are recognized when title and risk of loss have passed to the customer.

Provision for estimated chargebacks, rebates, discounts, managed care rebates, product returns and doubtful accounts is made at the time of sale and is analyzed and adjusted, if necessary, at each balance sheet date.

Freight: The Company records amounts billed to customers for shipping and handling as revenue, and records shipping and handling expense related to product sales as cost of sales.

Cash and Cash Equivalents: The Company considers all unrestricted, highly liquid investments with maturity of three months or less when acquired, to be cash and cash equivalents.

Accounts Receivable: Trade accounts receivables are stated at their net realizable value. The nature of the Company's business involves, in the ordinary course, significant judgments and estimates relating to chargebacks, coupon redemption, product returns, rebates, discounts given to customers and allowances for doubtful accounts. Depending on the products, the customers, the specific terms of national supply contracts and the particular arrangements with the Company's wholesaler customers, certain rebates, chargebacks and other credits are recorded as deductions to the Company's trade accounts receivable.

Unless otherwise noted, the provisions and allowances for the following customer deductions are reflected in the accompanying condensed consolidated financial statements as reductions of revenues and trade accounts receivable, respectively.

Chargebacks, Rebates, Discounts and Other Adjustments: The Company enters into contractual agreements with certain third parties such as retailers, hospitals, group-purchasing organizations ("GPOs") and managed care organizations to sell certain products at predetermined prices. Similarly, we maintain an allowance for rebates and discounts related to billbacks, wholesaler service fee for service contracts, GPO administrative fees, government programs, prompt payment and other adjustments with certain customers. Most of the parties have elected to have these contracts administered through wholesalers that buy the product from the Company and subsequently sell it to these third parties. When a wholesaler sells products to one of these third parties that are subject to a contractual price agreement, the difference between the price paid to the Company by the wholesaler and the price under the specific contract is charged back to the Company by the wholesaler. The Company tracks sales and submitted chargebacks by product number and contract for each wholesaler. Utilizing this information, the Company estimates a chargeback percentage for each product and records an allowance as a reduction to gross sales when the Company records its sale of the products. The Company reduces the chargeback allowance when a chargeback request from a wholesaler is processed. Actual chargebacks processed by the Company can vary materially from period to period based upon actual sales volume through the wholesalers. However, the Company's provision for chargebacks is fully reserved for at the time when sales revenues are recognized.

Management obtains certain wholesaler inventory reports to aid in analyzing the reasonableness of the chargeback allowance and which are additionally monitored to ensure that wholesaler inventory levels by product do not significantly exceed underlying customer demand. The Company assesses the reasonableness of its chargeback allowance by applying the product chargeback percentage based on a combination of historical activity and future price and mix expectations to the quantities of inventory on hand at the wholesaler per wholesaler inventory reports. In accordance with its accounting policy, the Company estimates the percentage amount of wholesaler inventory that will ultimately be sold to third parties that are subject to contractual price agreements based on a trend of such sales through wholesalers. The Company uses this percentage estimate until historical trends indicate that a revision should be made. On an ongoing basis, the Company evaluates its actual chargeback rate experience, and new trends are

factored into its estimates each quarter as market conditions change.

Similarly, the Company maintains an allowance for rebates related to contract and other programs with certain customers. Rebate percentages vary by product and by volume purchased by each eligible customer. The Company tracks sales by product number for each eligible customer and then applies the applicable rebate percentage, using both historical trends and actual experience to estimate its rebate allowance. The Company reduces gross sales and increases the rebate allowance by the estimated rebate amount when the Company sells its products to its rebate-eligible customers. The Company reduces the rebate allowance when it processes a customer request for a rebate. At each balance sheet date, the Company analyzes the allowance for rebates against actual rebates processed and makes necessary adjustments as appropriate. Actual rebates processed can vary materially from period to period.

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Other adjustments consist primarily of price adjustments, also known as “shelf-stock adjustments” and “price protections,” which are both credits issued to reflect increases or decreases in the invoice or contract prices of the Company’s products. In the case of a price decrease a credit is given for product remaining in customer’s inventories at the time of the price reduction. Contractual price protection results in a similar credit when the invoice or contract prices of the Company’s products increase, effectively allowing customers to purchase products at previous prices for a specified period of time. Amounts recorded for estimated shelf-stock adjustments and price protections are based upon specified terms with direct customers, estimated changes in market prices, and estimates of inventory held by customers. The Company regularly monitors these and other factors and evaluates the reserve as additional information becomes available. Other adjustments also include prompt payment discounts.

Sales Returns: Certain of the Company’s products are sold with the customer having the right to return the product within specified periods and guidelines for a variety of reasons, including but not limited to, pending expiration dates. Provisions are made at the time of sale based upon tracked historical experience. Historical factors such as one-time events as well as pending new developments that would impact the expected level of returns are taken into account to determine the appropriate reserve estimate at each balance sheet date. As part of the evaluation of the balance required, the Company considers actual returns to date that are in process, the expected impact of any product recalls and the wholesaler’s inventory information to assess the magnitude of unconsumed product that may result in sales returns to the Company in the future. The sales returns level can be impacted by factors such as overall market demand and market competition and availability for substitute products which can increase or decrease the pull through for sales of the Company’s products and ultimately impact the level of sales returns. Actual returns experience and trends are factored into the Company’s estimates each quarter as market conditions change. Actual returns processed can vary materially from period to period.

Allowance for Coupons, Promotions and Co-Pay discount cards: The Company issues coupons from time to time that are redeemable against certain of our Consumer Health products. Upon release of coupons into the market, the Company records an estimate of the dollar value of coupons expected to be redeemed. This estimate is based on historical experience and is adjusted as needed based on actual redemptions. In addition to couponing, from time to time the Company authorizes various retailers to run in-store promotional sales of its products. Upon receiving confirmation that a promotion was run, the Company accrues an estimate of the dollar amount expected to be owed back to the retailer. This estimate is trued up to actual upon receipt of the invoice from the retailer. Additionally, the Company provides consumer co-pay discount cards, administered through outside agents to provide discounted products when redeemed. Upon release of the cards into the market, the Company records an estimate of the dollar value of co-pay discounts expected to be utilized. This estimate is based on historical experience and is adjusted as needed based on actual usage.

Doubtful Accounts: Provisions for doubtful accounts, which reflect trade receivable balances owed to the Company that are believed to be uncollectible, are recorded as a component of selling, general and administrative ("SG&A") expenses. In estimating the allowance for doubtful accounts, the Company considers its historical experience with collections and write-offs, the credit quality of its customers and any recent or anticipated changes thereto, and the outstanding balances and past due amounts from its customers. Note that in the ordinary course of business, and consistent with our peers, we may from time to time offer extended payment terms to our customers as an incentive for new product launches and in other circumstances in accordance with industry practices. These extended payment terms do not represent a significant risk to the collectability of accounts receivable as of the period-end and are evaluated in accordance with Accounting Standards Codification (ASC) 605 - Revenue Recognition as applicable. Accounts are considered past due when they remain uncollected beyond the due date specified in the applicable contract or on the applicable invoice, whichever is deemed to take precedence.

Advertising and Promotional Allowances to Customers: The Company routinely sells its consumer health products to major retail drug chains. From time to time, the Company may arrange for these retailers to run in-store promotional

sales of the Company's products. The Company reserves an estimate of the dollar amount owed back to the retailer, recording this amount as a reduction to revenue at the later of the date on which the revenue is recognized or the date the sales incentive is offered. When the actual invoice for the sales promotion is received from the retailer, the Company adjusts its estimate accordingly. Advertising and promotional expenses paid to customers are expensed as incurred in accordance with ASC 605-50 - Customer Payments and Incentives.

Inventories: Inventories are stated at the lower of cost (average cost method) or market. The Company maintains an allowance for slow-moving and obsolete inventory as well as inventory where the cost is in excess of its net realizable value. For finished goods inventory, the Company estimates the amount of inventory that may not be sold prior to its expiration or is slow moving based upon review of recent sales activity and wholesaler inventory information. The Company also analyzes its raw material and component inventory for slow moving items.

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The Company capitalizes inventory costs associated with its products prior to regulatory approval when, based on management judgment, future commercialization is considered probable and future economic benefit is expected to be realized. The Company assesses the regulatory approval process and where the product stands in relation to that approval process including any known constraints or impediments to approval. The Company also considers the shelf life of the product in relation to the product timeline for approval.

Intangible Assets: Intangible assets consist primarily of goodwill and in-process research and development, which are carried at initial value and subject to evaluation for impairment, and product licensing costs, trademarks and other such costs, which are capitalized and amortized on a straight-line basis over their useful lives, normally ranging from one year to thirty years. The Company regularly assesses its intangible assets for impairment based on several factors, including estimated fair value and anticipated cash flows. If the Company incurs additional costs to renew or extend the life of an intangible asset, such costs are added to the remaining unamortized cost of the asset, if any, and the sum is amortized over the extended remaining life of the asset.

Goodwill is tested for impairment annually or more frequently if changes in circumstances or the occurrence of events suggest that impairment may exist. The Company uses widely accepted valuation techniques to determine the fair value of its reporting units used in its annual goodwill impairment analysis. The Company’s valuation is primarily based on qualitative and quantitative assessments regarding the fair value of goodwill relative to its carrying value. The Company models the fair value of the reporting unit based on projected earnings and cash flows of the reporting unit.

Property, Plant and Equipment: Property, plant and equipment is stated at cost, less accumulated depreciation. Depreciation is provided using the straight-line method in amounts considered sufficient to amortize the cost of the assets to operations over their estimated useful lives or capital lease terms. The amortization of assets under capital leases is included within depreciation expense.

Net Income Per Common Share: Basic net income per common share is based upon weighted average common shares outstanding. Diluted net income per common share is based upon the weighted average number of common shares outstanding, including the dilutive effect, if any, of stock options and convertible securities using the treasury stock and if converted methods. Anti-dilutive shares are excluded from the computation of diluted net income per share.

Income Taxes: Income taxes are accounted for under the asset and liability method. Deferred income tax assets and liabilities are recognized for the tax effects of temporary differences between the financial reporting and tax bases of assets and liabilities, and net operating loss and other tax credit carry-forwards. These items are measured using the enacted tax rates and laws that will be in effect when the differences are expected to reverse. The Company records a valuation allowance to reduce the recognized deferred tax assets to the amount that is more likely than not to be realized.

Fair Value of Financial Instruments: The Company applies ASC 820 - Fair Value Measurement, which establishes a framework for measuring fair value and clarifies the definition of fair value within that framework. ASC 820 - Fair Value Measurement defines fair value as an exit price, which is the price that would be received for an asset or paid to transfer a liability in the Company’s principal or most advantageous market in an orderly transaction between market participants on the measurement date. The fair value hierarchy established in ASC 820 - Fair Value Measurement generally requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. Observable inputs reflect the assumptions that market participants would use in pricing the asset or liability and are developed based on market data obtained from sources independent of the reporting entity. Unobservable inputs reflect the entity’s own assumptions based on market data and the entity’s judgments about the assumptions that market participants would use in pricing the asset or liability, and are to be developed based on the best information available in the circumstances.

The valuation hierarchy is composed of three levels. The classification within the valuation hierarchy is based on the lowest level of input that is significant to the fair value measurement. The levels within the valuation hierarchy are described below:

- Level 1—Assets and liabilities with unadjusted, quoted prices listed on active market exchanges. Inputs to the fair value measurement are observable inputs, such as quoted prices in active markets for identical assets or liabilities. The carrying value of the Company‘s cash and cash equivalents and the portion of the value of the Nicox S.A. ("Nicox") shares which are available to be traded on the exchange are considered Level 1 assets.

- Level 2—Inputs to the fair value measurement are determined using prices for recently traded assets and liabilities with similar underlying terms, as well as directly or indirectly observable inputs, such as interest rates and yield curves that are observable at commonly quoted intervals.

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- Level 3—Inputs to the fair value measurement are unobservable inputs, such as estimates, assumptions, and valuation techniques when little or no market data exists for the assets or liabilities. The portion of the fair valuation of the available for sale investment held in shares of Nicox S.A. ("Nicox") subject to a lock-up provision is considered a Level 3 asset. The additional consideration payable as a result of the ECR divestiture and other insignificant contingent amounts are considered Level 3 liabilities.

The following table summarizes the basis used to measure the fair values of the Company's financial instruments (amounts in thousands):

| Description | March 31, 2016 | Fair Value Measurements at Reporting Date, Using: Quoted Prices in Active Markets for Identical Items (Level 1) | Significant Other Observable Inputs (Level 2) | Significant Unobservable Inputs (Level 3) |
|---|---|---|---|---|
| Cash and cash equivalents | $140,998 | $140,998 | $— | $— |
| Available-for-sale securities | 4,901 | 4,010 | — | 891 |
| Total assets | $145,899 | $145,008 | $— | $891 |
| Purchase consideration payable | $4,974 | $— | $— | $4,974 |
| Total liabilities | $4,974 | $— | $— | $4,974 |

| Description | December 31, 2015 | Quoted Prices in Active Markets for Identical Items (Level 1) | Significant Other Observable Inputs (Level 2) | Significant Unobservable Inputs (Level 3) |
|---|---|---|---|---|
| Cash and cash equivalents | $346,266 | $346,266 | $— | $— |
| Available-for-sale securities | 5,941 | 4,843 | | 1,098 |
| Total assets | $352,207 | $351,109 | $— | $1,098 |
| Purchase consideration payable | $4,967 | $— | $— | $4,967 |
| Total liabilities | $4,967 | $— | $— | $4,967 |

As of March 31, 2016, the Company was carrying available for sale investments in shares of Nicox. These shares of Nicox were initially valued at $12.5 million discounted to reflect certain lockup provisions preventing immediate conversion of underlying shares received for the Company's investment in an available for sale security, or an approximately $1.7 million unrealized gain from the original costs basis of $10.8 million. During the years ended December 31, 2015 and 2014 the Company sold $2.6 million and $0.6 million, respectively of the available-for-sale securities. In the three months ended March 31, 2016 the Company did not sell any additional shares and due to sustained declines in the underlying Nicox share value, recognized a $2.7 million unrealized loss of the remaining investment value to date. A portion of the remaining $4.9 million of securities are subject to certain lockup provisions

and as such, the fair value of the cost basis investments is estimated using observable and unobservable inputs to discount for lack of marketability.

The remaining purchase consideration payable is principally comprised of amounts owed relating to the ECR and Watson Laboratories, Inc. (“Watson”) divestitures, at fair value as determined based on the underlying contracts and the Company’s subjective evaluation of the additional consideration.

Stock-Based Compensation: Stock-based compensation cost is estimated at grant date based on the fair value of the award, and the cost is recognized as expense ratably over the vesting period. The Company uses the Black-Scholes model for estimating the grant date fair value of stock options. Determining the assumptions to be used in the model is highly subjective

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and requires judgment. The Company uses an expected volatility that is based on the historical volatility of its common stock. The expected life assumption is based on historical employee exercise patterns and employee post-vesting termination behavior. The risk-free interest rate for the expected term of the option is based on the average market rate on U.S. Treasury securities of similar term in effect during the quarter in which the options were granted. The dividend yield reflects the Company's historical experience as well as future expectations over the expected term of the option. The Company estimates forfeitures at the time of grant and revises the estimate in subsequent periods, as necessary, if actual forfeitures differ from initial estimates.

Business Combinations: Business combinations are accounted for in accordance with ASC 805 - Business Combinations, using the acquisition method of accounting. The acquisition method of accounting requires an acquirer to recognize the assets acquired and the liabilities assumed at the acquisition date measured at their fair values as of that date. Fair value determinations are based on discounted cash flow analyses or other valuation techniques. In determining the fair value of the assets acquired and liabilities assumed in a material acquisition, the Company may utilize appraisals from third party valuation firms to determine fair values of some or all of the assets acquired and liabilities assumed, or may complete some or all of the valuations internally. In either case, the Company takes full responsibility for the determination of the fair value of the assets acquired and liabilities assumed. The value of goodwill reflects the excess of the fair value of the consideration conveyed to the seller over the fair value of the net assets received. Under the acquisition method of accounting, the Company will identify the acquirer and the closing date and apply applicable recognition principles and conditions.

Acquisition-related costs are costs the Company incurs to effect a business combination. The Company accounts for acquisition-related costs as expenses in the periods in which the costs are incurred.

NOTE 3 — STOCK BASED COMPENSATION

At the Company's 2014 Annual Meeting of Shareholders, which took place May 2, 2014, the Company's shareholders approved the adoption of the Akorn, Inc. 2014 Stock Option Plan (the "2014 Plan"). The 2014 Plan reserves 7.5 million shares for issuance upon the grant of stock options, restricted share units, or various other instruments to directors, employers and consultants. The 2014 Plan replaced the 2003 Stock Option Plan (the "2003 Plan"), which expired on November 6, 2013, although previously granted awards remain outstanding under the 2003 Plan.

The Company uses the single-award method for allocating compensation cost related to stock options to each period. The following table sets forth the components of the Company's share based compensation expense for the three month periods ended March 31, 2016 and 2015 (in thousands):

| | Three months ended March 31, | |
|---|---|---|
| | 2016 | 2015 |
| Stock options and employee stock purchase plan | $2,049 | $2,252 |
| Restricted stock units | 872 | 722 |
| Total stock-based compensation expense | $2,921 | $2,974 |

The weighted-average assumptions used in estimating the grant date fair value of the stock options granted under the 2014 Plan during the three month periods ended March 31, 2016, and 2015, respectively along with the weighted-average grant date fair values, are set forth in the table below.

| | Three Months Ended March 31, |
|---|---|

| | 2016 | 2015 |
|---|---|---|
| Expected volatility | 47% | 42% |
| Expected life (in years) | 4.75 | 4.75 |
| Risk-free interest rate | 1.26% | 1.56% |
| Dividend yield | — | — |
| Fair value per stock option | $9.95 | $18.21 |
| Forfeiture rate | 8% | 8% |

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The table below sets forth a summary of activity within the 2014 and 2003 Plans for the three months ended March 31, 2016:

| | Number of Options (in thousands) | Weighted Average Exercise Price | Weighted Average Remaining Contractual Term (Years) | Aggregate Intrinsic Value (in thousands) (1) |
|---|---|---|---|---|
| Outstanding at December 31, 2015 | 4,757 | $ 20.33 | 3.41 | $ 80,868 |
| Granted | 911 | 24.14 | | |
| Exercised | — | — | | |
| Forfeited | (77) | 27.69 | | |
| Outstanding at March 31, 2016 | 5,591 | $ 20.83 | 3.78 | $ 116,467 |
| Exercisable at March 31, 2016 | 2,591 | $ 12.31 | 1.39 | $ 31,879 |

(1) May include value from potentially anti-dilutive options whose exercise price exceeds the closing stock price.

The aggregate intrinsic value for stock options outstanding and exercisable is defined as the difference between the market value of the Company's common stock as of the date indicated and the exercise price of the stock options. During the three months ended March 31, 2016, no stock options were exercised. During the three months ended March 31, 2015, approximately 2.2 million stock options were exercised resulting in cash payments to the Company of approximately $9.2 million. These option exercises generated tax-deductions of approximately $84.9 million.

From time to time the Company grants restricted stock units to certain employees and members of its Board of Directors ("Directors"). Restricted stock units are valued at the closing market price of the Company's common stock on the day of grant and the total value of the units are recognized as expense ratably over the vesting period of the grants. On May 2, 2014, the Company granted a total of 71,582 restricted share units to senior management which vest at 25% per year on the anniversary date of the grant ending May 2, 2018. Also on May 2, 2014, the Company modified approximately 2.3 million options to extend the option term of certain individuals in Senior Management. On September 5, 2014, the Company granted a total of 257,416 restricted share units to senior management and 8,034 shares to a Director to make the individuals who received extended option terms on May 2, 2014 whole given increased tax liabilities. The options each vest at 25% per year on the anniversary date of the grant ending September 5, 2018.

The following is a summary of non-vested restricted stock activity:

| | Number of Units (in thousands) | Weighted Average Grant Date Fair Value |
|---|---|---|
| Non-vested at December 31, 2015 | 253 | $ 35.31 |
| Granted | — | — |
| Forfeited | — | $ — |
| Vested | (34) | $ 36.47 |
| Non-vested at March 31, 2016 | 219 | $ 35.13 |

NOTE 4 — ACCOUNTS RECEIVABLE ALLOWANCES

The nature of the Company's business inherently involves, in the ordinary course, significant amounts and substantial volumes of transactions and estimates relating to allowances for product returns, chargebacks, rebates, doubtful accounts and discounts given to customers. This is a natural circumstance of the pharmaceutical industry and is not specific to the Company. Depending on the product, the customer, the specific terms of national supply contracts and the particular arrangements with the Company's wholesaler customers, certain rebates, chargebacks and other credits are deducted from the Company's accounts receivable. The process of claiming these deductions depends on wholesalers reporting to the Company the amount of deductions that were earned under the terms of the respective agreement with the customer (which in turn depends on the specific customer, each having its own pricing arrangement, which entitles it to a particular deduction). This process can lead to partial payments against outstanding invoices as the wholesalers take the claimed deductions at the time of payment.

With the exception of the provision for doubtful accounts, which is reflected as part of selling, general and administrative expense, the provisions for the following customer reserves are reflected as a reduction of revenues in the accompanying condensed consolidated statements of comprehensive income. The ending reserve balances are included in trade accounts receivable, net in the Company's condensed consolidated balance sheets.

Net trade accounts receivable consists of the following (in thousands):

| | March 31, 2016 | December 31, 2015 |
|---|---|---|
| Gross accounts receivable | $472,665 | $466,570 |
| Less reserves for: | | |
| Chargebacks and rebates | (238,028) | (254,440) |
| Product returns | (49,337) | (48,333) |
| Discounts and allowances | (10,281) | (10,079) |
| Advertising and promotions | (1,488) | (1,518) |
| Doubtful accounts | (1,348) | (1,579) |
| Trade accounts receivable, net | $172,183 | $150,621 |

For the three month periods ended March 31, 2016 and 2015, the Company recorded the following adjustments to gross sales (in thousands):

| | Three Months Ended March 31, | |
|---|---|---|
| | 2016 | 2015 |
| Gross sales | $593,392 | $568,016 |
| Less adjustments for: | | |
| Chargebacks and rebates | (293,434) | (293,181) |
| Product returns | (4,286) | (5,574) |
| Discounts and allowances | (11,954) | (14,044) |
| Administrative fees | (14,290) | (26,123) |
| Advertising, promotions and others | (1,081) | (1,716) |
| Revenues, net | $268,347 | $227,378 |

NOTE 5 — INVENTORIES

The components of inventories are as follows (in thousands):

| | March 31, 2016 | December 31, 2015 |
|---|---|---|
| Finished goods | $82,021 | $76,512 |
| Work in process | 9,900 | 8,905 |
| Raw materials and supplies | 98,948 | 99,899 |
| Inventories, net | $190,869 | $185,316 |

The Company maintains reserves and records provisions for slow-moving and obsolete inventory as well as inventory with a cost in excess of its net realizable value. Inventory at March 31, 2016 and December 31, 2015 was reported net of these reserves of $23.2 million and $21.5 million, respectively.

NOTE 6 — PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment consist of the following (in thousands):

| | March 31, 2016 | December 31, 2015 |
|---|---|---|
| Land and land improvements | $17,661 | $17,409 |
| Buildings and leasehold improvements | 86,780 | 85,767 |
| Furniture and equipment | 146,653 | 142,885 |
| Sub-total | 251,094 | 246,061 |
| Accumulated depreciation | (93,139) | (87,086) |
| Property, plant and equipment placed in service, net | $157,955 | $158,975 |
| Construction in progress | 28,303 | 20,639 |
| Property, plant and equipment, net | $186,258 | $179,614 |

A portion of the Company's property, plant and equipment is located outside the United States. At March 31, 2016 and December 31, 2015, property, plant and equipment, net, with a net carrying value of $56.7 million and $52.6 million, respectively, was located outside the United States at the Company's manufacturing facilities in India and Switzerland.

The Company recorded depreciation expense of approximately $6.0 million and $5.0 million during the three month periods ended March 31, 2016 and 2015, respectively.

NOTE 7 — GOODWILL AND OTHER INTANGIBLE ASSETS

Goodwill:

The following table provides a summary of the activity in goodwill by segment for the three months ended March 31, 2016 (in thousands):

| | Consumer Health | Prescription Pharmaceuticals | Total |
|---|---|---|---|
| Balances at December 31, 2015 | $ 16,717 | $ 267,993 | $284,710 |
| Currency translation adjustments | — | 6 | 6 |
| Acquisitions | — | — | — |
| Impairments | — | — | — |
| Dispositions | — | — | — |

| | | | |
|---|---|---|---|
| Balances at March 31, 2016 | $ 16,717 | $ 267,999 | $284,716 |

Goodwill acquired prior to December 31, 2015 attributed to the Consumer Health segment was due to the Company's acquisition of Hi-Tech in April 2014 and the acquisition of Advanced Vision Research, Inc. in May 2011, while Goodwill attributed to the Prescription Pharmaceuticals segment relates to the Company's acquisition of VersaPharm in August 2014, Hi-Tech in April 2014 and selected assets of Kilitch Drugs (India) Limited ("KDIL") in February 2012.

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Product Licensing Rights, In-Process Research and Development ("IPR&D"), and Other Intangible Assets:

The following table sets forth information about the net book value of the Company's other intangible assets as of March 31, 2016 and December 31, 2015, and the weighted average remaining amortization period as of March 31, 2016 and December 31, 2015 (dollar amounts in thousands):

| | Gross Amount | Accumulated Amortization | Reclass-ifications | Impairment | Net Balance | Wtd Avg Remaining Amortization Period (years) |
|---|---|---|---|---|---|---|
| March 31, 2016 | | | | | | |
| Product licensing rights | $787,269 | $(148,211) | $ — | $(200) | $638,858 | 10.8 |
| IPR&D | 186,932 | — | — | — | 186,932 | N/A - Indefinite lived |
| Trademarks | 16,000 | (3,298) | — | — | 12,702 | 18.1 |
| Customer relationships | 6,343 | (3,721) | — | — | 2,622 | 10.1 |
| Other intangibles | 11,235 | (3,038) | — | — | 8,197 | 6.4 |
| Non-compete agreement | 2,319 | (2,319) | — | — | — | — |
| | $1,010,098 | $(160,587) | $ — | $(200) | $849,311 | |
| December 31, 2015 | | | | | | |
| Product licensing rights | $782,269 | $(132,642) | $ 38,000 | $(34,000) | $653,627 | 13.2 |
| IPR&D | 227,559 | — | (38,000) | (2,627) | 186,932 | N/A - Indefinite lived |
| Trademarks | 16,000 | (2,982) | — | — | 13,018 | 21.8 |
| Customer relationships | 6,493 | (3,716) | — | — | 2,777 | 11.7 |
| Other intangibles | 11,235 | (2,600) | — | — | 8,635 | 7.9 |
| Non-compete agreement | 2,167 | (2,167) | — | — | — | — |
| | $1,045,723 | $(144,107) | $ — | $(36,627) | $864,989 | |

The Company recorded amortization expense of approximately $16.5 million and $16.4 million during the three month periods ended March 31, 2016 and 2015, respectively. The Company also recognized impairment of intangible assets in the three month period ended March 31, 2016 of $0.2 million related to one product licensing right which was net of an immaterial accumulated amortization at the impairment date.

NOTE 8 — FINANCING ARRANGEMENTS

Incremental Term Loan

Concurrent with the closing of its acquisition of VersaPharm, Akorn, Inc. and its wholly owned domestic subsidiaries (the "Akorn Loan Parties") entered into a $445.0 million Incremental Facility Joinder Agreement (the "Incremental Term Loan Facility") pursuant to a Loan Agreement (the "Incremental Term Loan Agreement") dated August 12, 2014 between the Akorn Loan Parties as borrowers, and JPMorgan Chase Bank, N.A. ("JPMorgan"), as lender and as administrative agent for certain other lenders. The proceeds received pursuant to the Incremental Term Loan Agreement were used to finance the VersaPharm Acquisition.

The Incremental Term Loan Facility is secured by all of the assets of the Akorn Loan Parties, including springing control of the Company's primary deposit account pursuant to a Deposit Account Control Agreement.

The Incremental Term Loan Facility required quarterly principal repayment equal to 0.25% of the initial loan amount of $445.0 million beginning with the first full quarter following the closing date of the Incremental Term Loan Agreement, with a final payment of the remaining principal balance due at maturity seven years from the date of closing of the Existing Term Loan Agreement or April 16, 2021. The Company may prepay all or a portion of the

remaining outstanding principal amount under the Incremental Term Loan Agreement at any time, or from time to time, subject to prior notice requirement to the lenders and payment of applicable fees. Prepayment of principal will be required should the Company incur any indebtedness not permitted under the Incremental Term Loan Agreement, or effect the sale, transfer or disposition of any property or asset, other than in the ordinary course of business. On February 16, 2016 the Company made a voluntary prepayment of its Incremental Term Loan facility of $85.2 million which settled all future quarterly principal repayments as denoted above until the date of the closing of the Incremental Term Loan Agreement or April 16, 2021 although future voluntary principal repayments are permitted. Effected for the principal repayment, as of March 31, 2016 outstanding debt under the Incremental

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Term Loan Facility was $354.3 million and the Company was in full compliance with all applicable covenants which included customary limitations on indebtedness, distributions, liens, acquisitions, investments, and other activities.

Prior to November 13, 2015 interest accrued based, at the Company's election, on an adjusted prime/federal funds rate ("ABR Loan") or an adjusted LIBOR ("Eurodollar Loan") rate, plus a margin of 2.50% for ABR Loans, and 3.50% for Eurodollar Loans. Each such margin would decrease by 0.25% in the event the Company's senior debt to EBITDA ratio for any quarter falls to 2.25:1.00 or below. During an event of default, as defined in the Existing Term Loan Agreement, any interest rate would be increased by 2.00% per annum. Per the Existing Term Loan Agreement, the interest rate on LIBOR loans could not fall below 4.50%.

On May 20, 2015 the Company modified the Incremental Term Loan Facility with JPMorgan and certain other lenders to remedy certain covenant defaults related to the FY 2014 financial restatement by incurring nominal charges affected through a temporary interest rate increase and an upfront payment.

On November 13, 2015 the Company again modified the Incremental Term Loan Facility with JPMorgan and certain other lenders to remedy certain remaining covenant defaults related to the FY 2014 financial restatement by incurring additional charges affected through a temporary interest rate increase and an upfront payment. Through the May 20, 2015 and November 13, 2015 debt modifications and related amortization, unamortized deferred financing fees were $10.7 million as of December 31, 2015. During the three month period ended March 31, 2016 the Company incurred an additional $1.5 million of financing costs related to the continued restatement and amortized $2.6 million of the total incremental term loan costs, as compared to $0.3 million amortized during the three month period ended March 31, 2015, resulting in $9.6 million of incremental deferred financing fees remaining at March 31, 2016. The increase in amortization of deferred financing fees in the current quarter as compared to the prior year quarter was principally the result of the deferred financing fee amortization associated with the voluntary principal repayment and increased amortization of costs due to consent modifications. The Company will amortize the remaining deferred financing fees using the effective interest method over the term of the Existing Term Loan Agreement.

Subsequent to November 13, 2015, interest accrues based, at the Company's election, on an adjusted prime/federal funds rate ("ABR Loan") or an adjusted LIBOR ("Eurodollar Loan") rate, plus a margin of 4.00% for ABR Loans and 5.00% for Eurodollar Loans. As of the date of the filing of this Form 10-Q until the maturity of the incremental term loan, our spread will be based upon the Ratings Level applicable on such date as documented below.

| Ratings Level | Index Ratings (Moody's/S&P) | Eurodollar Spread | ABR Spread |
|---|---|---|---|
| Level I | B1/B+ or higher | 4.25% | 3.25% |
| Level II | B2/B | 4.75% | 3.75% |
| Level III | B3/B- or lower | 5.50% | 4.50% |

For the three month periods ended March 31, 2016 and 2015, the Company recorded interest expense of $4.6 million and $5.0 million, respectively in relation to the Incremental Term Loan Agreement.

Existing Term Loan

Concurrent with the closing of its acquisition of Hi-Tech (the "Hi-Tech Acquisition") Akorn Loan Parties entered into a $600.0 million Term Facility (the "Existing Term Facility") pursuant to a Loan Agreement dated April 17, 2014 (the "Existing Term Loan Agreement") between the Akorn Loan Parties as borrowers, and certain other lenders with JPMorgan, acting as administrative agent. The Company may increase the loan amount up to an additional $150.0 million, or more, provided certain financial covenants and other conditions are satisfied. The proceeds received pursuant to the Existing Term Loan Agreement were used to finance the Hi-Tech Acquisition.

The Existing Term Facility is secured by all of the assets of the Akorn Loan Parties, including springing control of the Company's primary deposit account pursuant to a deposit account control agreement.

The Existing Term Loan Agreement required quarterly principal repayment equal to 0.25% of the initial loan amount of $600.0 million beginning with the second full quarter following the closing date of the Existing Term Loan Agreement, with a final payment of the remaining principal balance due at maturity seven years from the date of closing of the Existing Term Loan Agreement. The Company may prepay all or a portion of the remaining outstanding principal amount under the Existing Term Loan Agreement at any time, or from time to time, subject to prior notice to the lenders and payment of applicable fees. Prepayment of principal will be required should the Company incur any indebtedness not permitted under the Existing

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Term Loan Agreement, or effect the sale, transfer or disposition of any property or asset, other than in the ordinary course of business. On February 16, 2016 the Company made a voluntary prepayment of its Existing Term Loan facility of $114.8 million which settled all future quarterly principal repayments as denoted above until the date of the closing of the Existing Term Loan Agreement or April 16, 2021, although future voluntary principal repayments are permitted. Effected for the principal repayment, as of March 31, 2016 outstanding debt under the term Existing Term Loan facility was $477.7 million and the Company was in full compliance with all applicable covenants which included customary limitations on indebtedness, distributions, liens, acquisitions, investments, and other activities.

Prior to November 13, 2015 interest accrued based, at the Company's election, on an adjusted prime/federal funds rate ("ABR Loan") or an adjusted LIBOR ("Eurodollar Loan") rate, plus a margin of 2.50% for ABR Loans, and 3.50% for Eurodollar Loans. Each such margin would decrease by 0.25% in the event Akorn's senior debt to EBITDA ratio for any quarter falls to 2.25:1.00 or below. During an event of default, as defined in the Existing Term Loan Agreement, any interest rate would be increased by 2.00% per annum. Per the Existing Term Loan Agreement, the interest rate on LIBOR loans could not fall below 4.50%.

On May 20, 2015 the Company modified the Existing Term Loan Facility with JPMorgan and certain other lenders to remedy certain covenant defaults related to the FY 2014 financial restatement by incurring nominal charges affected through a temporary interest rate increase and an upfront payment.

On November 13, 2015 the Company again modified the Existing Term Loan Facility with JPMorgan and certain other lenders to remedy certain remaining covenant defaults related to the FY 2014 financial restatement by incurring additional charges affected through a temporary interest rate increase and an upfront payment. Through the May 20, 2015 and November 13, 2015 debt modifications and related amortization, unamortized deferred financing fees were $16.1 million as of December 31, 2015. During the three month period ended March 31, 2016 the Company incurred an additional $2.1 million of financing costs related to the continued restatement and amortized $3.5 million of the total existing term loan costs, as compared to $0.5 million amortized during the three month period ended March 31, 2015, resulting in $14.6 million of existing deferred financing fees remaining at March 31, 2016. The increase in amortization of deferred financing fees in the current quarter as compared to the prior year quarter was principally the result of the deferred financing fee amortization associated with the voluntary principal repayment and increased amortization of costs due to consent modifications. The Company will amortize the remaining deferred financing fees using the effective interest method over the term of the Existing Term Loan Agreement.

Subsequent to November 13, 2015, interest accrues based, at the Company's election, on an adjusted prime/federal funds rate ("ABR Loan") or an adjusted LIBOR ("Eurodollar Loan") rate, plus a margin of 4.00% for ABR Loans and 5.00% for Eurodollar Loans. As of the date of the filing of this Form 10-Q until the maturity of the existing term loan, our spread will be based upon the Ratings Level applicable on such date as documented below.

| Ratings Level | Index Ratings (Moody's/S&P) | Eurodollar Spread | ABR Spread |
|---|---|---|---|
| Level I | B1/B+ or higher | 4.25% | 3.25% |
| Level II | B2/B | 4.75% | 3.75% |
| Level III | B3/B- or lower | 5.50% | 4.50% |

For the three month periods ended March 31, 2016 and 2015, the Company recorded interest expense of $6.2 million and $6.7 million, respectively in relation to the Existing Term Loan.

JPMorgan Credit Facility

On April 17, 2014, the Akorn Loan Parties entered into a Credit Agreement (the "JPM Credit Agreement") with JPMorgan as administrative agent, and Bank of America, N.A., as syndication agent for certain other lenders (at

closing, Bank of America, N.A. and Wells Fargo Bank, N. A.) for a $150.0 million revolving credit facility (the “JPM Revolving Facility”).

Subject to other conditions in the JPM Credit Agreement, advances under the JPM Revolving Facility will be made in accordance with a borrowing base consisting of the sum of the following:

(a) 85% of eligible accounts receivable;

(b) The lesser of:

a. 65% of the lower of cost or market value of eligible raw materials and work in process inventory, valued on a first in first out basis, and

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b. 85% of the orderly liquidation value of eligible raw materials and work in process inventory, valued on a first in first out basis;

(c) The lesser of:

a. 75% of the lower of cost or market value of eligible finished goods inventory, valued on a first in first out basis, and

b. 85% of the orderly liquidation value of eligible finished goods inventory, valued on a first in first out basis up to 85% of the liquidation value of eligible inventory (or 75% of market value finished goods inventory); and

(d) Less any reserves deemed necessary by the administrative agent, and allowed in its permitted discretion.

The total amount available under the JPM Revolving Facility includes a $10.0 million letter of credit facility.

Under the terms of the JPM Credit Agreement, if availability under the JPM Revolving Facility falls below 12.5% of commitments or $15.0 million for more than 30 consecutive days, the Company may be subject to cash dominion, additional reporting requirements, and additional covenants and restrictions. The Company may seek additional commitments to increase the maximum amount of the JPM Revolving Facility to $200.0 million.

Unless cash dominion is exercised by the lenders in connection with the JPM Revolving Facility, the Company will be required to repay the JPM Revolving Facility upon its expiration five years from issuance, subject to permitted extension, and will pay interest on the outstanding balance monthly based, at the Company's election, on an adjusted prime/federal funds rate ("ABR") or an adjusted LIBOR ("Eurodollar"), plus a margin determined in accordance with the Company's consolidated fixed charge coverage ratio (EBITDA to fixed charges) as follows:

| Fixed Charge Coverage Ratio | Revolver ABR Spread | Revolver Eurodollar Spread |
|---|---|---|
| Category 1<br>> 1.50 to 1.0 | 0.50% | 1.50% |
| Category 2<br>> 1.25 to 1.00 but < 1.50 to 1.00 | 0.75% | 1.75% |
| Category 3<br>< 1.25 to 1.00 | 1.00% | 2.00% |

In addition to interest on borrowings, the Company will pay an unused line fee of 0.250% per annum on the unused portion of the JPM Revolving Facility.

During an event of default, as defined in the JPM Credit Agreement, any interest rate will be increased by 2.00% per annum.

The JPM Revolving Facility is secured by all of the assets of the Akorn Loan Parties, including springing control of the Company's primary deposit account pursuant to a Deposit Account Control Agreement. The financial covenants require the Akorn Loan Parties to maintain the following on a consolidated basis:

(a) Minimum Liquidity, as defined in the JPM Credit Agreement, of not less than (a) $120.0 million plus (b) 25% of the JPM Revolving Facility commitments during the three month period preceding the June 1, 2016 maturity date of the Company's senior convertible notes.

(b) Ratio of EBITDA to fixed charges of no less than 1.00 to 1.00 (measured quarterly for the trailing 4 quarters).

As of March 31, 2016 the Company was in full compliance with all covenants applicable to the JPM Revolving Facility.

The Company may use any proceeds from borrowings under the JPM Revolving Facility for working capital needs and for the general corporate purposes of the Company and its subsidiaries. At March 31, 2016, there were no outstanding borrowings and one outstanding letter of credit in the amount of approximately $1.5 million under the JPM Revolving Facility. Availability under the facility as of March 31, 2016 was approximately $148.5 million.

The JPM Credit Agreement places customary limitations on indebtedness, distributions, liens, acquisitions, investments, and other activities of the Akorn Loan Parties in a manner designed to protect the collateral while providing flexibility for growth and the historic business activities of the Company and its subsidiaries.

Convertible Notes

On June 1, 2011, the Company issued $120.0 million aggregate principal amount of 3.50% Convertible Senior Notes due 2016 (the "Notes") which included $20.0 million in aggregate principal amount of the Notes issued in connection with the full exercise by the initial purchasers of their over-allotment option. The Notes are governed by the Company's indenture with Wells Fargo Bank, National Association, as trustee (the "Indenture"). The Notes were offered and sold only to qualified institutional buyers. The net proceeds from the sale of the Notes were approximately $115.3 million, after deducting underwriting fees and other related expenses.

The Notes have a maturity date of June 1, 2016 and pay interest at an annual rate of 3.50% semiannually in arrears on June 1 and December 1 of each year, with the first interest payment completed on December 1, 2011. The Notes are convertible into shares of the Company's common stock, cash or a combination thereof at an initial conversion price of $8.76 per share, which is equivalent to an initial conversion rate of approximately 114.1553 shares per $1,000 principal amount of Notes. The conversion price is subject to adjustment for certain events described in the Indenture, including certain corporate transactions which would increase the conversion rate and decrease the conversion price for a holder that elects to convert their Notes in connection with such corporate transaction. The conversion price has not been adjusted as of the date of this Form 10-Q.

The Notes may be converted at any time at the option of the holders prior to the close of business on the business day immediately preceding December 1, 2015 under the following circumstances: (1) during any calendar quarter commencing after September 30, 2011, if the closing sale price of the Company's common stock, 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 calendar quarter immediately preceding the calendar quarter in which the conversion occurs, is more than 130% of the conversion price in effect on each applicable trading day; (2) during the five consecutive trading-day period following any five consecutive trading-day period in which the trading price for the Notes per $1,000 principal amount of Notes for each such trading day was less than 98% of the closing sale price of the Company's common stock on such date multiplied by the then-current conversion rate; or (3) upon the occurrence of specified corporate events. On or after December 1, 2015 until the close of business on the business day immediately preceding the stated maturity date, holders may surrender all or any portion of their Notes for conversion at any time, regardless of the foregoing circumstances. Upon conversion, the Company will pay or deliver, at the Company's option, cash, shares of the Company's common stock, or a combination thereof. If a "fundamental change" (as defined in the Indenture) occurs prior to the stated maturity date, holders may require the Company to purchase for cash all or a portion of their Notes.

The Notes became convertible effective April 1, 2012 as a result of the Company's common stock closing above the required price of $11.39 per share for 20 of the last 30 consecutive trading days in the quarter ended March 31, 2012. The Notes have remained convertible for each successive quarter as a result of meeting the trading price requirement at the end of each prior quarter. During the year ended December 31, 2015 and 2014, approximately $44.3 million and $32.5 million of this convertible debt was converted at the holder's request which resulted in an additional $1.2 million and $1.0 million of expense recognized due to the conversions, respectively. No debt was converted at the holder's request, in the three month period ended March 31, 2016.

The Notes are not listed on any securities exchange or on any automated dealer quotation system, but are traded on a secondary market made by the initial purchasers. The initial purchasers of the Notes advised the Company of their intent to make a market in the Notes following the offering, though they are not obligated to do so and may discontinue any market making at any time.

As of March 31, 2016, the face value of the notes was $43.2 million, but due to recent inactivity in the trading of the convertible notes as a result of recent conversions, bid and ask spreads, which would be used to calculate the trading value of the outstanding notes were not available and accordingly, we have not calculated the trading value of the convertible notes as of and for the three months ended March 31, 2016. The actual conversion value of the Notes is based on the product of the conversion rate and the market price of the Company's common stock at conversion, as defined in the Indenture. As of March 31, 2016, the Company's common stock closed at $23.53 per share, resulting in a pro forma conversion value for the Notes of approximately $116.1 million. Increases in the market value of the Company's common stock increase the fair value of the Company's obligation accordingly. There is no upper limit placed on the possible conversion value of the Notes.

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The Notes are being accounted for in accordance with ASC 470-20 - Debt with Conversion and Other Options. Under ASC 470-20 - Debt with Conversion and Other Options, issuers of convertible debt instruments that may be settled in cash upon conversion, including partial cash settlement, are required to separately account for the liability (debt) and equity (conversion option) components. The application of ASC 470-20 - Debt with Conversion and Other Options resulted in the recognition of $20.5 million as the value for the equity component. This amount was offset by $0.8 million of equity issuance costs, as described below, and both were affected by the conversion of a cumulative amount of $76.8 million of notes as documented above. At dates indicated, the net carrying amount of the liability component and the remaining unamortized debt discount were as follows (in thousands):

| | March 31, 2016 | December 31, 2015 |
|---|---|---|
| Carrying amount of equity component | $7,372 | $ 7,372 |
| Carrying amount of the liability component | 42,912 | 42,465 |
| Unamortized discount of the liability component | 303 | 750 |
| Unamortized deferred financing costs | 55 | 136 |

The Company incurred debt issuance costs of $4.7 million related to its issuance of the Notes. In accordance with ASC 470-20 - Debt with Conversion and Other Options, the Company allocated this debt issuance cost ratably between the liability and equity components of the Notes, resulting in $3.9 million of debt issuance costs allocated to the liability component and $0.8 million allocated to the equity component. The portion allocated to the liability component was classified as deferred financing costs and is being amortized by the effective interest method through the earlier of the maturity date of the Notes or the date of conversion, while the portion allocated to the equity component was recorded as an offset to additional paid-in capital upon issuance of the Notes.

During the three month periods ended March 31, 2016 and 2015, the Company recorded the following expenses in relation to the Notes (in thousands):

| | Three months ended March 31, | |
|---|---|---|
| | 2016 | 2015 |
| Expense Description | | |
| Interest expense at 3.5% coupon rate (1) | $432 | $759 |
| Debt discount amortization | 447 | 835 |
| Amortization of deferred financing costs | 81 | 151 |
| Loss on Conversion | — | 73 |
| | $960 | $1,818 |

(1) As a result of the restatement of the 2014 financial data and the resultant delays in filings of the 2015 financial statements the Company had been required to remit an additional 0.5% interest penalty to all holders of the convertible notes throughout the three month period ended March 31, 2016.

Upon issuing the Notes, the Company established a deferred tax liability of $8.6 million related to the debt discount of $21.3 million, with an offsetting debit of $8.6 million to common stock. The deferred tax liability was established because the amortization of the debt discount generates non-cash interest expense that is not deductible for income tax purposes. Since the Company’s net deferred tax assets were fully reserved by valuation allowance at the time the Notes were issued, the Company reduced its valuation allowance by $8.6 million upon recording the deferred tax liability related to the debt discount with an offsetting credit of $8.6 million to common stock. As a result, the net

impact of these entries was a debit of $8.6 million to the valuation reserve against the Company's deferred tax assets and a credit of $8.6 million to deferred tax liability. The deferred tax liability is being amortized monthly as the Company records non-cash interest from its amortization of the debt discount on the Notes.

Aggregate cumulative maturities of long-term obligations (including the incremental and existing term loans, convertible debt and the JPM revolver) as of March 31, 2016 are:

[20]

| (In thousands) | 2016 | 2017 | 2018 | 2019 | Thereafter |
|---|---|---|---|---|---|
| Maturities | $43,215 | $ — | $ — | $ — | $831,938 |

NOTE 9 — EARNINGS PER SHARE

Basic net income per common share is based upon the weighted average number of common shares outstanding during the period. Diluted net income per common share is based upon the weighted average number of common shares outstanding, including the dilutive effect, if any, of potentially dilutive securities using the treasury stock method.

Previously, diluted net income per share assumed the principal amount of the convertible Notes would be cash settled and any conversion spread would be settled using common shares, as the Company has the choice of settling either in cash or shares. The Company had demonstrated a past practice and intent of cash settlement for the principal and stock settlement of the conversion spread. As a result, earnings per share calculations for periods ended prior to and including September 30, 2014 only included the assumption of conversion to common shares for the convertible spread. During the quarter ended December 31, 2014, the Company changed its practice of cash settlement and settled redemptions using common shares for both the principal and conversion spread and accordingly, earnings per share amounts were calculated using the if-converted method. For the three month periods ended March 31, 2016 and 2015, respectively the earnings per share amounts were calculated using the if-converted method.

The Company’s potentially dilutive shares consist of: (i) vested and unvested stock options that are in-the-money, (ii) unvested RSAs, and (iii) shares potentially issuable upon conversion of the Notes.

A reconciliation of the earnings per share data from a basic to a fully diluted basis is detailed below (amounts in thousands, except per share data):

| | Three Months Ended March 31, | |
|---|---|---|
| | 2016 | 2015 |
| Net income | $41,886 | $37,538 |
| Convertible debt income adjustments, net of tax | 604 | 1,107 |
| Net income adjusted for convertible debt as used for diluted earnings per share | $42,490 | $38,645 |
| Net income per share: | | |
| Basic | $0.35 | $0.33 |
| Diluted (1) | $0.34 | $0.31 |
| Shares used in computing net income per share: | | |
| Weighted average basic shares outstanding | 119,516 | 113,352 |
| Dilutive securities: | | |
| Stock option and unvested RSAs | 1,172 | 2,085 |
| Shares issuable upon conversion of the notes | 4,933 | 9,940 |
| Total dilutive securities | 6,105 | 12,025 |
| Weighted average diluted shares outstanding | 125,621 | 125,377 |
| Shares subject to stock options omitted from the calculation of income per share as their effect would have been anti-dilutive | 2,430 | 575 |

(1)

Due to a change in the expectation that management may settle all future note conversions solely through shares in the year and quarter ended December 31, 2014, the diluted income from continuing operations per share calculation includes the dilutive effect of convertible debt and is offset by the exclusion of interest expense and deferred financing fees related to the convertible debt of $0.6 million and $1.1 million, after-tax for the three month periods ended March 31, 2016 and 2015, respectively.

[21]

NOTE 10 — SEGMENT INFORMATION

During the three month periods ended March 31, 2016 and 2015, respectively, the Company reported results for the following two reportable segments:

- Prescription Pharmaceuticals
- Consumer Health

The Company's Prescription Pharmaceutical segment principally consists of generic and branded Prescription Pharmaceuticals products which span a broad range of indications as well as a variety of dosage forms including: sterile ophthalmics, injectables and inhalants, and non-sterile oral liquids, topicals, nasal sprays. The Company's Consumer Health segment principally consists of animal health and OTC products, both branded and private label. OTC products include a suite of products for the treatment of dry eye sold under the TheraTears® brand name.

Financial information about the Company's reportable segments is based upon internal financial reports that aggregate certain operating information. The Company's Chief Operating Decision Maker ("CODM"), as defined in ASC 280 - Segment Reporting, and CEO, oversees operational assessments and resource allocations based upon the results of the Company's reportable segments, which have available and discrete financial information.

Selected financial info by reportable segment is presented below (in thousands).

| | Three Months Ended March 31, | |
|---|---|---|
| | 2016 | 2015 |
| Revenues: | | |
| Prescription Pharmaceuticals | $250,749 | $210,554 |
| Consumer Health | 17,598 | 16,824 |
| Total revenues | 268,347 | 227,378 |
| | | |
| Gross Profit: | | |
| Prescription Pharmaceuticals | 154,635 | 121,159 |
| Consumer Health | 8,382 | 9,004 |
| Total gross profit | 163,017 | 130,163 |
| | | |
| Operating expenses | 75,438 | 56,896 |
| | | |
| Operating income | 87,579 | 73,267 |
| Other expense | (21,007) | (14,939) |
| | | |
| Income before income taxes | $66,572 | $58,328 |

The Company manages its business segments to the gross profit level and manages its operating and other costs on a company-wide basis. Inter-segment activity at the gross profit level is minimal. The Company does not have discrete assets by segment, as certain manufacturing and warehouse facilities support more than one segment, and therefore does not report assets by segment.

NOTE 11 — BUSINESS COMBINATIONS AND OTHER STRATEGIC INVESTMENTS

Akorn AG (formerly Excelvision AG)

On July 22, 2014, Akorn International S.à r.l., entered into a share purchase agreement with Fareva SA, a private company headquartered in France to acquire all of the issued and outstanding shares of capital stock of its wholly owned subsidiary, Excelvision AG for 21.7 million CHF (“Swiss Francs”), net of certain working capital amounts and inventory amounts, Excelvision AG was a contract manufacturer located in Hettlingen, Switzerland specializing in ophthalmic products.

[22]

On January 2, 2015, the Company acquired all of the outstanding shares of capital stock of Excelvision AG for $28.4 million U.S. dollars ("USD") funded through available cash on hand. The Company's acquisition of Excelvision AG is being accounted for as a business combination in accordance with ASC 805 - Business Combinations. The purpose of the acquisition is to expand the Company's manufacturing capacity. On April 1, 2016 the name of Excelvision AG was changed to Akorn AG.

During the three month periods ended March 31, 2016 and 2015, the Company recorded $0 and approximately $0.1 million, respectively in acquisition-related expenses in connection with the Akorn AG Acquisition. These expenses principally consisted of various legal fees and other acquisition costs which have been recorded within "acquisition related costs" as part of operating expenses in the Company's condensed consolidated statement of comprehensive income.

The following table sets forth the consideration paid for the Akorn AG Acquisition and the fair values of the acquired assets and assumed liabilities (in millions of USD) as of the acquisition date adjusted in accordance with GAAP. The figures below may differ from historical financial results of Akorn AG.

| | |
|---|---|
| Consideration: | |
| Amount of cash paid | $25.9 |
| Outstanding amount payable to Fareva | 2.5 |
| Total consideration at closing | $28.4 |
| | |
| Recognized amounts of identifiable assets acquired: | |
| Cash and cash equivalents | $1.2 |
| Accounts receivable | 3.4 |
| Inventory | 4.2 |
| Other current assets | 0.9 |
| Property and equipment | 26.6 |
| Total assets acquired | 36.3 |
| Assumed current liabilities | (1.7 ) |
| Assumed non-current liabilities | (3.9 ) |
| Deferred tax liabilities | (1.4 ) |
| Total liabilities assumed | (7.0 ) |
| Bargain purchase gain | (0.9 ) |
| Fair value of assets acquired | $28.4 |

Through its acquisition of Akorn AG the Company recognized a bargain purchase gain of $0.9 million which was largely derived from the difference between the fair value and the book value of the property and equipment acquired through the acquisition. Bargain purchase gain has been recognized within net income for the three month period ended March 31, 2015.

During the three month periods ended March 31, 2016 and 2015, the Company recorded net revenue of approximately $6.9 million and $6.5 million, respectively related to sales from the Akorn AG location subsequent to acquisition.

Other Strategic Investments

On August 1, 2011, the Company entered into a Series A-2 Preferred Stock Purchase Agreement to acquire a minority ownership interest in Aciex Therapeutics Inc. ("Aciex"), a private ophthalmic development pharmaceutical company based in Westborough, MA, for $8.0 million in cash. Subsequently, on September 30, 2011, the Company entered

into Amendment No. 1 to Series A-2 Preferred Stock Purchase Agreement to acquire additional shares of Series A-2 Preferred Stock in Aciex for approximately $2.0 million in cash. On April 17, 2014, the Company entered into a Secured Note and Warrant Purchase Agreement to acquire secured, convertible promissory notes of Aciex for approximately $0.4 million in cash. On June 27, 2014, the Company entered into a second Secured Note and Warrant Purchase Agreement to acquire additional secured, convertible promissory notes of Aciex for an additional amount of approximately $0.4 million. The Company's aggregate investment in Aciex is $10.8 million at cost. Aciex was an ophthalmic drug development company focused on developing novel therapeutics to treat ocular diseases. Aciex's pipeline consists of both clinical stage assets and pre-Investigational new drug stage assets. The investments detailed above provided the Company with an ownership interest in Aciex of below

20%. The Aciex Agreement and Aciex Amendment contain certain customary rights and preferences over the common stock of Aciex and further provide that the Company shall have the right to a seat on the Aciex board of directors.

On July 2, 2014 Nicox S.A., ("Nicox") an international company entered into an arrangement to acquire all of the outstanding equity of Aciex (the "Aciex Acquisition").

On October 22, 2014 Nicox shareholders voted at the Nicox General Meeting, to approve the Aciex Acquisition. The transaction was consummated on October 24, 2014, following the completion of certain legal conditions and formalities. As consideration for its carried investment in Aciex, the Company received from the Aciex Acquisition pro-rata shares of Nicox which are publically traded on the Euronext Paris exchange. Through the closing the Company received approximately 4.3 million shares of Nicox which were subject to certain lockup provisions preventing immediate sale of underlying shares received for the Company's investment in an available for sale security.

Through the years ended December 31, 2015 and 2014 the Company sold 1.1 million and 0.2 million unrestricted shares for approximately $2.6 million and $0.6 million realizing a loss of $0.2 million and an immaterial gain on the sale of shares, respectively. There were no share sales for the three months ended March 31, 2016.

In accordance with ASC 820 Fair Value Measurement, the Company records unrealized holding gains and losses on available for sale securities in the "Accumulated other comprehensive income" caption in the condensed consolidated Balance Sheet. For the three months ended March 31, 2016 the Company recognized an unrealized holding loss, net of tax of $2.7 million as calculated based on the discounted value of the investment given the contractual lockup provisions. The Company has determined that of the $4.9 million of unrealized fair value associated with the investment, all $4.9 million is available to be converted to cash within one year from the balance sheet date and has been classified as a current asset.

NOTE 12 — COMMITMENTS AND CONTINGENCIES

The Company has entered into strategic business agreements for the development and marketing of finished dosage form pharmaceutical products with various pharmaceutical development companies.

Each strategic business agreement includes a future payment schedule for contingent milestone payments and in certain strategic business agreements, minimum royalty payments. The Company will be responsible for contingent milestone payments and minimum royalty payments to these strategic business partners based upon the occurrence of future events. Each strategic business agreement defines the triggering event of its future payment schedule, such as meeting product development progress timelines, successful product testing and validation, successful clinical studies, various FDA and other regulatory approvals and other factors as negotiated. None of the contingent milestone payments or minimum royalty payments are individually material to the Company.

The Company is engaged in various supply agreements with third parties which obligate the Company to purchase various API or finished products at contractual minimum levels. None of these agreements are individually or in aggregate material to the Company. Further, the Company does not believe at this time that any of the purchase obligations represent levels above that of normal business demands.

The table below summarizes contingent potential milestone payments due to strategic partners in the years 2016 and beyond, assuming all such contingencies occur (in thousands):

| Year ending December 31, | Amount |
|---|---|
| 2016 | $13,153 |
| 2017 | 4,418 |
| 2018 | 1,771 |
| 2019 and Beyond | — |
| Total | $19,342 |

[24]

Legal Proceedings

The Company is a party to legal proceedings and potential claims arising in the ordinary course of our business. The amount, if any, of ultimate liability with respect to such matters cannot be determined. Despite the inherent uncertainties of litigation, management of the Company believes that the ultimate disposition of such proceedings and exposure will not have a material adverse impact on the financial condition, results of operations, or cash flows of the Company. Set forth below is a listing of potentially material legal proceedings of the Company in existence as of the date of filing this Quarterly Report on Form 10-Q.

Shareholder and Derivative Litigation. On March 4, 2015, a purported class action complaint was filed entitled Yeung v. Akorn, Inc., at el., in the federal district court of Northern District of Illinois, No. 15-cv-1944. The complaint alleged that the Company and three of its officers violated the federal securities laws in connection with matters related to its accounting and financial reporting in the wake of its acquisitions of Hi-Tech Pharmaceutical Co., Inc. and VersaPharm, Inc. A second, related case entitled Sarzynski v. Akorn, Inc., et al., No. 15- cv-3921, was filed on May 4, 2015 making similar allegations. On August 24, 2015, the two cases were consolidated and a lead plaintiff appointed in In re Akorn, Inc. Securities Litigation. No motions or answer have been filed in the case.

The Company's board of directors also received shareholder demand letters and two shareholder derivative lawsuits have been filed alleging breaches of fiduciary duty in connection with the Company' s accounting for its acquisition and restatement of its financials. The cases, Safriet v. Rai, et al., No. 15-cv-7275, and Glaubach v. Rai, et al., No. 15-11129, both filed in the Northern District of Illinois have been stayed pending anticipated rulings on any motions to dismiss the defendants may file in In re Akorn, Inc. Securities Litigation.

On March 8, 2016, an additional case was filed, Kogut v. Akorn, Inc., et al., in Louisiana state court in the Parish of East Baton Rouge, No. 646474. The Kogut action seeks an order requiring the Company to make its pending SEC filings, issue audited financial statements for the years ended December 31, 2014 and 2015, and hold its annual shareholder meeting.

Fera Pharmaceuticals, LLC v. Akorn Inc., Sean Brynjelsen, and Michael Stehn, in the United States District Court for the Southern District of New York, Case No. 12-cv-07692-LLS. Fera Pharmaceuticals, LLC ("Fera") filed this action on September 12, 2012. The defendants in the case are the Company and two of its employees, Sean Brynjelsen and Michael Stehn. The amended complaint generally alleges that the Company breached certain terms of a contract manufacturing supply agreement by, among other things, failing to manufacture Fera's products, raising the manufacturing cost, and impermissibly terminating the contract. In addition, Fera alleges that the Company misappropriated Fera's trade secrets in order to manufacture Erythromycin and Bacitracin for its own benefit. The counts in the amended complaint are for (1) breach of contract, (2) misappropriation of trade secrets, (3) fraudulent inducement, and (4) declaratory and injunctive relief. Fera seeks $135 million in compensatory damages, an additional, unspecified amount in punitive damages, and injunctive relief restraining the Company from selling the products at issue in the case. The Company filed a counterclaim against Fera and certain affiliates, as well as Perrigo Company of Tennessee and Perrigo Company plc, asserting violations of Sections 1 and 2 of the Sherman Act and tortious interference with business relations. The case is still in the discovery phase, and no trial date has been scheduled.

State of Louisiana v. Abbott Laboratories, Inc., et al., The Louisiana Attorney General filed suit, Number 624,522, Nineteenth Judicial District Court, Parish of East Baton Rouge, including Hi-Tech Pharmacal, and other defendants in Louisiana state court. Louisiana's complaint alleges that the defendants violated Louisiana state laws in connection with Medicaid reimbursement for certain vitamins, dietary supplements, and DESI products that were allegedly ineligible for reimbursement. The defendants filed exceptions of no cause of action and no right of action in response to Louisiana’s amended complaint. In a judgment entered on October 2, 2015, the trial court sustained the defendants'

exception of no right of action, which dismissed all of Louisiana's claims. Louisiana sought appellate review of the court's decision by filing an application for supervisory writs, as well as an appeal pending in the First Circuit Court of Appeal in Louisiana.

In addition to the foregoing matters, Akorn has received shareholder demands for legal action to be taken against certain of the Company's directors and officers based on alleged breaches of fiduciary duties and other misconduct in connection with the Company's pending restatement of financial results and other matters. Akorn's Board of Directors formed a special committee to conduct an inquiry into the demand allegations and to provide its conclusions and recommendations to the Board.

Former Hi-Tech director and employee Reuben Seltzer delivered to the Company a demand letter in August 2014 alleging that the Company breached his employment agreement and improperly terminated Mr. Seltzer’s employment. Mr. Seltzer further alleges that he is entitled to compensation in the approximate amount of $5.2 million. The Company disputes these claims and intends to vigorously defend these allegations.

Other Matters

The Chicago Regional Office of the SEC is conducting an investigation regarding the previously disclosed restatement, internal controls and other related matters. Additionally, the United States Attorney's Office for the Southern District of New York ("USAO") has requested information regarding these matters. Akorn has been furnishing requested information and is fully cooperating with the SEC and USAO.

The legal matters discussed above could result in losses, including damages, fines and civil penalties, and criminal charges, which could be substantial. We record accruals for these contingencies to the extent that we conclude that a loss is both probable and reasonably estimable. As of the date of this filing, although the Company has determined that liabilities associated with these legal matters are reasonably possible, they cannot be reasonably estimated. Given the nature of the litigation and investigations discussed above and the complexities involved, the Company is unable to reasonably estimate a possible loss for such matters until the Company knows, among other factors, (i) what claims, if any, will survive dispositive motion practice, (ii) the extent of the claims, including the size of any potential class, particularly when damages are not specified or are indeterminate, (iii) how the discovery process will affect the litigation, (iv) the settlement posture of the other parties to the litigation and (v) any other factors that may have a material effect on the litigation or investigation. However, we could incur judgments, enter into settlements or revise our expectations regarding the outcome of certain matters, and such developments could have a material adverse effect on our results of operations in the period in which the amounts are accrued and/or our cash flows in the period in which the amounts are paid.

NOTE 13 — CUSTOMER AND SUPPLIER CONCENTRATION

Customer Concentrations

A significant percentage of the Company’s sales are to three large wholesale drug distributors: AmerisourceBergen Corporation; Cardinal Health, Inc. and McKesson Corporation. These three wholesalers (the “Big 3 Wholesalers”) are all distributors of the Company’s products, as well as suppliers of a broad range of health care products.

The following table sets forth the percentage of the Company’s gross and net sales for the three month periods ended March 31, 2016 and 2015, and gross accounts receivable as of March 31, 2016 and December 31, 2015, attributable to the Big 3 Wholesalers:

| | Three months ended March 31, | |
|---|---|---|
| Big 3 Wholesalers combined: | 2016 | 2015 |
| Percentage of gross sales | 79% | 76% |
| Percentage of net sales revenues | 67% | 67% |

| | March 31, 2016 | December 31, 2015 |
|---|---|---|
| Percentage of gross trade accounts receivable | 79% | 83% |

If sales to any of the Big 3 Wholesalers were to diminish or cease, the Company believes that the end users of its products would have little difficulty obtaining the Company’s products either directly from the Company or from another distributor.

No other customers accounted for more than 10% of gross sales, net revenues or gross trade receivables for the indicated dates and periods.

Supplier Concentrations

The Company requires a supply of quality raw materials and components to manufacture and package pharmaceutical products for its own use and for third parties with which it has contracted. The principal components of the Company's products are active and inactive pharmaceutical ingredients and certain packaging materials. Certain of these ingredients and components are available from only a single source and, in the case of certain of the Company's abbreviated new drug applications and new drug applications, only one supplier of raw materials has been identified. Because FDA approval of drugs requires manufacturers to specify their proposed suppliers of active ingredients and certain packaging materials in their applications, FDA approval of any new supplier would be required if active ingredients or such packaging materials were no

longer available from the specified supplier. The qualification of a new supplier could delay the Company's development and marketing efforts. In addition, certain of the pharmaceutical products marketed by the Company are manufactured by a partnered third party manufacturer, which serves as the Company's sole source of that finished product. If for any reason the Company is unable to obtain sufficient quantities of any of the raw materials or components required to produce and package its products, it may not be able to manufacture its products as planned, which could have a material adverse effect on the Company's business, financial condition and results of operations. Likewise, if the Company's manufacturing partners experience any similar difficulties in obtaining raw materials or in manufacturing the finished product, the Company's results of operations would be negatively impacted.

No individual supplier represented 10% or more of the Company's purchases in either of the three month periods ended March 31, 2016 or 2015.

Product Concentrations

In the three month period ended March 31, 2016 one unapproved Prescription Pharmaceutical product represented approximately 18% of the Company's total net sales revenue. Comparatively in the three month period ended March 31, 2015 one Prescription Pharmaceutical product represented approximately 10% of the Company's total net sales revenue. The Company attempts to minimize the risk associated with product concentrations by continuing to acquire and develop new products to add to its existing portfolio.

NOTE 14 — INCOME TAXES

The following table sets forth information about the Company's income tax provision for the periods indicated (dollar amounts in thousands):

| | Three Months ended March 31, | | | | | |
|---|---|---|---|---|---|---|
| | 2016 | | | 2015 | | |
| Income before income taxes | $ | 66,572 | | $ | 58,328 | |
| Income tax provision | 24,686 | | | 20,790 | | |
| Net income | $ | 41,886 | | $ | 37,538 | |
| Income tax provision/benefit as a percentage of income before income taxes | 37.1 | | % | 35.6 | | % |

During the three month period ended March 31, 2016, the Company recorded an income tax provision of $24.7 million, which equals 37.1% of income before income tax. The Company anticipates that its effective tax rate for the year 2016 will be approximately 37.0%. During the three month period ended March 31, 2015, the Company recorded a income tax provision that equaled 35.6% of income before income tax in the applicable period.

The income tax provision rates in the current year was increased in comparison to the prior year due to losses at the Company's Indian and Swiss subsidiaries. As of March 31, 2016, the Company could not conclude that it was more likely than not that tax benefits from certain of these net operating losses would be realized. Accordingly, the Company established for certain of the losses at its Indian subsidiary and the entire amount of the loss at its Swiss subsidiary.

In accordance with ASC 740-10-25, Income Taxes - Recognition, the Company reviews its tax positions to determine whether it is “more likely than not” that its tax positions will be sustained upon examination, and if any tax positions are deemed to fall short of that standard, the Company establishes reserves based on the financial exposure and the likelihood that its tax positions would not be sustained. Based on its evaluations, the Company determined that it would not recognize tax benefits on $2.4 million and $2.3 million related to uncertain tax positions as of March 31, 2016 and December 31, 2015, respectively. If recognized, $1.6 million of these tax positions will impact the Company’s effective rate with the remaining $0.8 million affecting goodwill.

NOTE 15 – RELATED PARTY TRANSACTIONS

During the three month periods ended March 31, 2016 and 2015, the Company obtained legal services totaling $0.3 million and $0.2 million respectively, of which $0.1 million and $0.1 million was payable as of March 31, 2016 and 2015, respectively to Polsinelli PC (formerly Polsinelli Shughart PC), a law firm for which the spouse of the Company’s Senior Vice President, General Counsel and Secretary is an attorney and shareholder.

NOTE 16 – NEW ACCOUNTING PRONOUNCEMENTS

Recently issued accounting pronouncements

In March 2016, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2016-08 - Revenue from Contracts with Customers: Principal versus Agent Considerations. The amendments of this standard are intended to improve the operability and understandability of the implementation guidance on principal versus agent considerations. The effective date for ASU 2016-08 is the same as the effective date for ASU 2014-09 and ASU 2015-14. The Company is currently evaluating the impact that ASU 2016-08 will have on its statement of financial position or financial statement disclosures.

In February 2016, the FASB issued ASU 2016-02 - Leases which establishes a comprehensive new lease accounting model. The new standard clarifies the definition of a lease and causes lessees to recognize leases on the balance sheet as a lease liability with a corresponding right-of-use asset for leases with a lease term of more than one year. ASU 2016-02 is effective for financial statements issued for fiscal years beginning after December 15, 2018, and interim periods within those fiscal years. Early adoption is permitted. The new standard requires a modified retrospective transition for capital or operating leases existing at or entered into after the beginning of the earliest comparative period presented in the financial statements, but it does not require transition accounting for leases that expire prior to the date of initial application. The Company is currently evaluating the impact that ASU 2016-02 will have on its statement of financial position or financial statement disclosures.

In August 2015, the FASB issued ASU No. 2015-14 - Revenue from Contracts with Customers (Topic 606) - Deferral of the Effective Date, which defers the effective date of ASU 2014-09 for one year and permits early adoption as early as the original effective date of ASU 2014-09. The new revenue standard may be applied retrospectively to each prior period presented or retrospectively with the cumulative effect recognized as of the date of adoption. The Company is currently evaluating the impact that ASU 2014-09 will have on its statement of financial position or financial statement disclosures.

In July 2015, the FASB issued ASU 2015-12 - Plan Accounting: Defined Benefit Plans (Topic 960) Defined Contribution Pension Plans (Topic 962) Health and Welfare Benefit Plans (Topic 965). The standard (1) requires an employee benefit plan to use contract value as the only measurement amount for fully benefit-responsive investment contracts, (2) simplifies and increases the effectiveness of plan investment disclosure requirements for employee benefit plans, and (3) provides employee benefit plans with a measurement-date practical expedient. The standard will be effective for the Plan beginning in fiscal year 2017, with early adoption permitted. The Company is currently evaluating the ASU 2015-12 will have on its statement of financial position or financial statement disclosures.

In July 2015, the FASB issued ASU 2015-11 - Inventory. ASU 2015-11 simplifies the measurement of inventory by requiring inventory to be measured at the lower of cost and net realizable value. ASU 2015-11 is effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years. The Company is currently evaluating the impact that ASU 2015-11 will have on its statement of financial position or financial statement disclosures.

In August 2014, the FASB issued ASU 2014-15 - Disclosure of Uncertainties about an Entity’s Ability to Continue as a Going Concern, to provide guidance on management’s responsibility in evaluating whether there is substantial doubt about a company’s ability to continue as a going concern and to provide related footnote disclosures. ASU 2014-15 is effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years. The Company is currently evaluating the impact that ASU 2014-15 will have on its statement of financial position or financial statement disclosures.

In May 2014, FASB issued ASU 2014-09 - Revenue from Contracts with Customers, which provides guidance for revenue recognition. ASU 2014-09 affects any entity that either enters into contracts with customers to transfer goods or services or enters into contracts for the transfer of nonfinancial assets and supersedes the revenue recognition requirements in ASC 605 - Revenue Recognition, and most industry-specific guidance. This ASU also supersedes some cost guidance included in ASC 605-35 - Revenue Recognition-Construction-Type and Production-Type Contracts. The standard’s core principle is that a company will recognize revenue when it transfers promised goods or services to customers in an amount that reflects the consideration to which a company expects to be entitled in exchange for those goods or services. In doing so, companies will be required to use more judgment and make more estimates than under previous guidance. These may include identifying performance obligations in the contract, estimating the amount of variable consideration to include in the transaction price and allocating the transaction price to each separate performance obligation. ASU 2014-09 is effective for the Company for the fiscal year beginning January 1, 2017 and, at that time the Company may adopt the new standard under the full retrospective

approach or the modified retrospective approach, as permitted under the standard. Early adoption of the standard is not permitted. The Company is currently evaluating the impact that ASU 2014-09 will have on its statement of financial position or financial statement disclosures.

Recently adopted accounting pronouncements

In March 2016, the FASB issued ASU 2016-09 - Compensation - Stock Compensation, which simplifies the accounting for the tax effects related to stock based compensation, including adjustments to how excess tax benefits and a company's payments for tax withholdings should be classified, amongst other items. ASU 2016-09 is effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years. ASU 2016-09 was early adopted by the Company for the year beginning January 1, 2016 and did not have a material impact on the Company's condensed consolidated financial statements or financial statement disclosures.

In November 2015, the FASB issued ASU 2015-17 - Balance Sheet Classification of Deferred Taxes to simplify the presentation of deferred income taxes. ASU 2015-17 - Balance Sheet Classification of Deferred Taxes requires that deferred tax liabilities and assets be classified as noncurrent in a classified statement of financial position. ASU 2015-17 - Balance Sheet Classification of Deferred Taxes is effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years. ASU 2015-17 - Balance Sheet Classification of Deferred Taxes was early adopted by the Company for the year beginning January 1, 2016 resulting in the reclassification of the current portion of deferred tax assets to non-current deferred tax assets for both the quarter ended March 31, 2016 and the year ended December 31, 2015.

In September 2015, the FASB issued ASU 2015-16 - Business Combinations. ASU 2015-16 - Business Combinations simplifies the accounting for measurement-period adjustments by requiring adjustments to provisional amounts in a business combination to be recognized in the reporting period in which the adjustment amounts are determined and eliminates the requirement to retrospectively account for those adjustments. ASU 2015-16 - Business Combinations requires an entity to present separately on the face of the income statement or disclose in the notes the amount recorded in current-period earnings that would have been recorded in previous reporting periods if the adjustment to the provisional amounts had been recognized as of the acquisition date. ASU 2015-16 - Business Combinations was adopted by the Company for the year beginning January 1, 2016 and did not have a material impact on the Company's condensed consolidated financial statements or financial statement disclosures.

In April 2015, the FASB issued ASU 2015-03, which simplifies the presentation of debt issuance costs by requiring that debt issuance costs be presented in the balance sheet as a direct deduction from the carrying amount of debt liability, consistent with debt discounts or premiums. ASU 2015-03 is effective for financial statements issued for fiscal years beginning after December 15, 2015, and interim periods within those fiscal years. ASU 2015-03 was adopted by the Company for the year beginning January 1, 2016 resulting in the reclassification of the deferred financing fees to the respective face value of debt outstanding for both the quarter ended March 31, 2016 and the year ended December 31, 2015.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

FORWARD-LOOKING STATEMENTS AND FACTORS AFFECTING FUTURE RESULTS

Certain statements in this Form 10-Q are forward-looking in nature and are intended to be "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. These statements relate to future events or future financial performance. In some cases, you can identify forward-looking statements by terminology such as "may," "should," "could," "expects," "plans," "intends," "anticipates," "believes," "estimates," "predicts," "potential" or "cont negative of such terms or other comparable terminology. Any forward-looking statements, including statements regarding our intent, beliefs or expectations are not guarantees of future performance. These statements are subject to risks and uncertainties and actual results, levels of activity, performance or achievements may differ materially from those in the forward-looking statements as a result of various factors. See "Risk Factors" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2015, as filed with the SEC on May 10, 2016, which includes, but is not limited to, the following items:

- The effects of the restatement and our ability to remediate material weaknesses;
- Our ability to continue to comply with all of the requirements of the U.S. Food and Drug Administration, including current Good Manufacturing Practices regulations;
- Our ability to obtain and maintain regulatory approvals for our products;
- Our success in developing, manufacturing, acquiring and marketing new products;
- Our ability to bring new products to market and the effects of sales of such products on our financial results;
- Our ability to successfully integrate acquired businesses and products;
- The effects of competition from other generic pharmaceuticals and from other pharmaceutical companies;
- Availability of raw materials needed to produce our products;
- The effects of federal, state and other governmental regulation on our business;
- The success of our strategic partnerships for the development and marketing of new products;
- The Company may be subject to litigation of a material nature, including but not limited to, the matters discussed in Note 12 - "Commitments and Contingencies" under the heading "Legal Proceedings";
- Our ability to obtain additional funding or financing to operate and grow our business; and
- Our ability to generate cash from operations sufficient to meet our working capital requirements and satisfy our debt obligations.

If any of these risks or uncertainties materialize, or if our underlying assumptions prove to be incorrect, actual results may vary significantly from what we projected. As a result, you should not place undue reliance on any forward-looking statements. Any forward-looking statement you read in the following Management's Discussion and

Analysis of Financial Condition and Results of Operations reflects our current views with respect to future events and is subject to these and other risks, uncertainties, and assumptions relating to our operations, results of operations, growth strategy, and liquidity. Unless required by law, we undertake no obligation to publicly update any forward-looking statements for any reason, whether as a result of new information, future events, or otherwise.

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RESULTS OF OPERATIONS

The following table sets forth the amounts and percentages of total revenue for certain items from our Condensed Consolidated Statements of Comprehensive Income and our segment reporting information for the three months ended March 31, 2016 and 2015 (dollar amounts in thousands):

| | Three months ended March 31, | | | | | |
|---|---|---|---|---|---|---|
| | 2016 | | | 2015 | | |
| | Amount | % of Revenue | | Amount | % of Revenue | |
| Revenues: | | | | | | |
| Prescription Pharmaceuticals | $250,749 | 93.4 | % | $210,554 | 92.6 | % |
| Consumer Health | 17,598 | 6.6 | % | 16,824 | 7.4 | % |
| Total revenues | 268,347 | 100.0 | % | 227,378 | 100.0 | % |
| Gross profit: | | | | | | |
| Prescription Pharmaceuticals | 154,635 | 61.7 | % | 121,159 | 57.5 | % |
| Consumer Health | 8,382 | 47.6 | % | 9,004 | 53.5 | % |
| Total gross profit | 163,017 | 60.7 | % | 130,163 | 57.2 | % |
| Operating expenses: | | | | | | |
| SG&A expenses | 49,086 | 18.3 | % | 29,986 | 13.2 | % |
| Acquisition-related costs | 197 | 0.1 | % | 1,257 | 0.6 | % |
| R&D expenses | 9,479 | 3.5 | % | 9,276 | 4.1 | % |
| Amortization of intangible assets | 16,518 | 6.2 | % | 16,377 | 7.2 | % |
| Impairment of intangible assets | 158 | 0.1 | % | — | — | % |
| Operating income | $87,579 | 32.6 | % | $73,267 | 32.2 | % |
| Other income (expense), net | (21,007) | (7.8) | % | (14,939) | (6.6) | % |
| Income before income taxes | 66,572 | 24.8 | % | 58,328 | 25.6 | % |
| Income tax provision | 24,686 | 9.2 | % | 20,790 | 9.1 | % |
| Net income | $41,886 | 15.6 | % | $37,538 | 16.5 | % |

THREE MONTHS ENDED MARCH 31, 2016 COMPARED TO THREE MONTHS ENDED MARCH 31, 2015

Our revenue was $268.3 million during the three month period ended March 31, 2016, representing an increase of $41.0 million, or 18.0%, over our revenue of $227.4 million for the prior year three month period ended March 31, 2015. The increase in revenue in the quarter was primarily due to organic growth in comparison to the prior year quarter. Acquisition revenues increased due to a comparative increase in our Akorn AG operations, which generated $6.9 million of revenue for the the three month period ended March 31, 2016 compared to $6.5 million of revenue in the prior year period. Of the remaining $40.5 million of increase, organic revenues increased $36.9 million with $13.8 million, or 37.4% due to increased volumes and $23.1 million from price changes due to the competitive nature of our business and industry. Revenues also increased by $6.2 million related to new or recently re-launched products and were partially offset by a $2.6 million decline in revenues due to products which were either divested or discontinued during the interim period.

The Prescription Pharmaceuticals segment revenues of $250.7 million represented an increase of $40.2 million, or 19.1%, over the prior year quarter, with organic revenues accounting for $36.1 million of the increase. Additionally, $0.4 million of the change came from increased revenues from Akorn AG and new or recently re-launched products which increased $6.2 million, partially offset by divested or discontinued products which decreased $2.6 million compared to the prior year quarter. The Consumer Health segment revenues of $17.6 million represented an increase of $0.8 million, or 4.6%, over the prior year quarter due to organic revenue increases.

Consolidated gross profit for the quarter ended March 31, 2016 was $163.0 million, or 60.7% of revenue, compared to $130.2 million, or 57.2% of revenue, in the corresponding prior year quarter. The $32.9 million increase in gross profit dollars and the increase in gross profit percentage was principally due to the effect shifting product mix to higher margin products.

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Total operating expenses were $75.4 million in the three month period ended March 31, 2016 an increase of $18.5 million, or 32.6%, over the prior year quarter, which was primarily due to additional costs associated with the growth of the business and continuing expenses associated with the restatement of 2014 financials incurred in the current year. The main drivers of the increase were comprised of the following fluctuations:

Selling, general and administrative ("SG&A") expenses were $49.1 million in the three month period ended March 31, 2016, an increase of $19.1 million, or 63.7%, over the prior year quarter expense of $30.0 million. Significant increases in SG&A expenses in comparison to the prior year quarter included $11.4 million of restatement expenses which were incurred in 2016, a $2.1 million increase in wages and related costs and a $2.3 million increase in bonus expenses compared to the prior year quarter to continue to strengthen our underlying infrastructure. As a percentage of sales, SG&A expenses increased to 18.3% in the three month period ended March 31, 2016 as compared to 13.2% in the prior year quarter.

We recorded $0.2 million of acquisition-related costs during the three month period ended March 31, 2016, compared to $1.3 million in the prior year quarter, a decrease of $1.1 million or 84.4%. The current year expenses were primarily related to unconsummated acquisitions, while expenses in the prior year were principally related to the acquisition of Akorn AG, the integrations of Hi-Tech and VersaPharm acquisitions and other smaller amounts from unconsummated acquisitions. As a percentage of sales, acquisition expenses decreased to 0.1% in three month period ended March 31, 2016 compared to 0.6% in the prior year quarter.

R&D expense was $9.5 million in the three month period ended March 31, 2016, an increase of $0.2 million or 2.2% over the R&D expense of $9.3 million recorded in the prior year quarter. This increase was principally related to the continued development of R&D projects in the comparative period. As a percentage of sales, R&D expenses decreased to 3.5% in the three month period ended March 31, 2016 compared to 4.1% in the prior year quarter.

Amortization of intangibles consists of the amortization of drug acquisition costs over the anticipated market lives of the acquired products, as well as the amortization of other intangible assets acquired through business combinations. Amortization of intangibles was $16.5 million in the three month period ended March 31, 2016, compared to $16.4 million in the prior year quarter. As a percentage of sales, amortization expenses decreased to 6.2% in the three month period ended March 31, 2016 compared to 7.2% in the prior year.

In the three month period ended March 31, 2016, we recognized non-operating expense totaling $21.0 million compared to $14.9 million in the prior year quarter. This increase of $6.1 million was primarily driven by an increase of $5.3 million due to deferred financing fee write-off due to the $200.0 million interim principal repayment in February 2016, a $2.0 million increase in litigation settlements expense and a $0.9 million decrease related to the bargain purchase gain related to the Akorn AG acquisition in the three month period ended March 31, 2015 partially offset by a $2.1 million reduction in interest expense. As a percentage of sales, non-operating expenses increased to 7.8% in the three month period ended March 31, 2016 compared to 6.6% in the prior year period.

For the three month period ended March 31, 2016, we recorded an income tax provision of $24.7 million on our income before income tax of $66.6 million or an effective tax provision rate of approximately 37.1%. In the prior year period ended March 31, 2015, our income tax provision was $20.8 million based on an effective tax provision rate of approximately 35.6%. The Company anticipates that its effective tax rate for the year 2016 will be approximately 37.0%.

We reported net income of $41.9 million for the three month period ended March 31, 2016, or 15.6% of revenues, compared to net income of $37.5 million for the period ended March 31, 2015, or 16.5% of revenues.

FINANCIAL CONDITION AND LIQUIDITY

Overview

During the three month period ended March 31, 2016, operating activities generated $9.0 million in cash flows. This positive cash flow was principally the result of our consolidated net income of $41.9 million and an add-back of non-cash expenses of $24.3 million, which included add-backs for depreciation and amortization expenses, debt financing amortization and non-cash stock compensation expense and outflows which included deferred income taxes, net, partially offset by a decrease of $26.8 million in accrued expenses, an increase of $21.4 million in accounts receivable and an increase of $5.9 million in inventory. We used $10.9 million in investing activities during the three months ended March 31, 2016, consisting of a $9.9 million used to acquire fixed assets and $1.0 million used to acquire other intangible assets. Financing activities used $203.6 million in the three months ended March 31, 2016, principally consisting of a $200.0 million interim principal repayment made in February.

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During the three month period ended March 31, 2015, we generated $45.3 million in cash flow from operating activities. This operating cash flow was primarily the result of our net income of $37.5 million, an add-back of non-cash expenses of $8.8 million, which included add-backs for depreciation and amortization expenses, inventory step-up expenses, debt financing amortization and non-cash stock compensation expense and outflows which included deferred income taxes, net, and excess tax benefit from stock compensation, a $2.9 million decrease in prepaid expenses and other current assets, a $0.4 million decrease in trade accounts receivable and a $7.9 million increase in trade accounts payable, partially offset by a $14.6 million increase in inventories and a $19.9 million increase in accrued expenses and other liabilities. We used $29.4 million in cash for investing activities during the three month period ended March 31, 2015, including $24.6 million used on payments for acquisitions and equity investments, net of cash acquired and $7.1 million used to acquire property, plant and equipment partially offset by $2.4 million received from the disposal of assets in the quarter. Financing activities generated $36.8 million in cash flow during the three months ended March 31, 2015, of which $11.0 million was from employee stock option exercise proceeds and participation in the ESPP and $29.9 million was due to the excess tax benefit from stock compensation, partially offset by $2.6 million of debt repayment and $1.5 million of consideration paid in the period.

As of March 31, 2016, we had no outstanding loans under our $150.0 million JPM Revolving Facility, and one outstanding letter of credit for $1.5 million. Our borrowing availability under the JPM Revolving Facility as of March 31, 2016 was $148.5 million.

Liquidity and Capital Needs

We require certain capital resources in order to maintain and expand our business. Our future capital expenditures may include substantial projects undertaken to upgrade, expand and improve our manufacturing facilities, in the U.S., India and Switzerland. Most notably we have previously and continue to expend significant amounts in order to gain compliance with FDA requirements at AIPL. Furthermore, the Company expects to expend significant amounts in order to comply with the Federal Drug Supply Chain Security Act by the implementation date in November 2017 and also intends to increase research and development spend through greater headcount. Our cash obligations include the principal and interest payments due on our Existing Term Loan and Incremental Term Loans (as described throughout this report) and $43.2 million of the Notes due 2016 (as described throughout this report), plus any amount we may borrow under the JPMorgan Facility (as described throughout this report). We believe that our cash reserves, operating cash flows, and availability under our credit facilities will be sufficient to finance any future expansions and meet our cash needs for the foreseeable future.

We continue to evaluate opportunities to grow and expand our business through the acquisition of new businesses, manufacturing facilities, or pharmaceutical product rights. Such acquisitions may require us to obtain additional sources of capital. We cannot predict the amount of capital that may be required to complete such acquisitions, and there is no assurance that sufficient financing for these activities would be available with terms acceptable to us, if at all.

Incremental Term Loan

On August 12, 2014, we completed the VersaPharm Acquisition for a purchase price of approximately $440.0 million in cash, net of working capital adjustments. The acquisition was financed primarily through a $445.0 million incremental term loan. The Incremental Term Loan matures on April 17, 2021 and bears interest at a variable rate based on a margin above prime or LIBOR, at our election. Please refer to Note 8 – Financing Arrangements for additional information about the Incremental Term Loan.

Existing Term Loan

On April 17, 2014, we completed the Hi-Tech Acquisition for a purchase price of approximately $650.0 million in cash. The acquisition was financed primarily through a $600.0 million term loan. The Existing Term Loan matures on April 17, 2021 and bears interest at a variable rate based on a margin above prime or LIBOR, at our election. Please refer to Note 8 – Financing Arrangements for additional information about the Existing Term Loan.

Convertible Notes

On June 1, 2011, we issued $120.0 million aggregate principal amount of 3.50% Convertible Senior Notes due 2016. Please refer to Note 8 – Financing Arrangements for additional information about the Notes.

Credit Facility

JPMorgan Credit Agreement

On April 17, 2014, concurrent with entering into the ExistingTerm Loan, we entered into a new $150.0 million revolving credit facility with JPMorgan. Please refer to Note 8 – Financing Arrangements for additional information about the JPMorgan Credit Agreement.

CRITICAL ACCOUNTING POLICIES

The preparation of financial statements in accordance with generally accepted accounting principles requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses. A summary of our significant accounting policies is included in Part II - Item 8, Note 3 - "Summary of Significant Accounting Policies", in our Annual Report on Form 10-K for the year ended December 31, 2015 and in Note 2 of this Form 10-Q. Certain of our accounting policies are considered critical, as these policies require significant, difficult or complex judgments by management, often requiring the use of estimates about the effects of matters that are inherently uncertain.

The Company consolidates the financial statements of its foreign subsidiary in accordance with ASC 830 - Foreign Currency Matters, under which the statement of operations amounts are translated from Indian rupees (“INR”) to U.S. dollars (“USD”) and Swiss Francs (“CHF”) to USD at the average exchange rate during the applicable period, while balance sheet amounts are generally translated at the exchange rate in effect as of the applicable balance sheet date. Cash flows are translated at the average exchange rate in place during the applicable period. Differences arising from foreign currency translation are included in accumulated other comprehensive income (loss) and are carried as a separate component of equity on our condensed consolidated balance sheets.

OFF-BALANCE SHEET ARRANGEMENTS

We do not have any off-balance sheet arrangements that have had, or are reasonably likely to have, a current or future material effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures, or capital resources.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

There has been no material change in the information reported under Part II, Item 7A - “Quantitative and Qualitative Disclosures About Market Risk” in our 2015 Form 10-K.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Our management evaluated, with the participation of our Chief Executive Officer and Chief Financial Officer, the effectiveness of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, for the three months ended March 31, 2016.

Based on this evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that, because of the material weaknesses in internal control over financial reporting described in our 2015 Form 10-K as filed on May 10, 2016, our disclosure controls and procedures were not effective as of March 31, 2016.

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In prior filings, we identified and reported material weaknesses in the Company’s internal control over financial reporting, which still exist as of March 31, 2016, due to ongoing remediation and testing procedures. In response to the identified material weaknesses, our management, with oversight from our audit committee, has dedicated significant resources to improve our control environment and to remedy the identified material weaknesses.

We are in the process of completing the design and implementation of the appropriate controls to fully remediate the material weaknesses. In addition, the Company is required to demonstrate the effectiveness of the new processes for a sufficient period of time. Therefore, until all remedial actions as described fully in our 2015 Form 10-K, as filed on May 10, 2016, including the efforts to implement and test the necessary control activities we identified, are fully completed, the material weaknesses identified will continue to exist.

Changes in Internal Control Over Financial Reporting

There were no changes in our internal control over financial reporting (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, for the three months ended March 31, 2016 that has materially affected, or is reasonably likely to materially affect the Company’s internal control over financial reporting.

With respect to the material weaknesses that were identified in the 2015 form 10-K, there have been no significant changes in our internal control over financial reporting. Our leadership team, together with other senior executives, continues to implement remedial actions to address the material weaknesses identified in our 2015 Form 10-K. We are committed to achieving and maintaining a strong control environment, high ethical standards, and financial reporting integrity and transparency.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings.

The Company's disclosure of legal proceedings within Part I - Item 1, Note 12 of this report, is incorporated into this Part II - Item 1 by reference.

Item 1A. Risk Factors.

There have been no material changes to the risk factors disclosed in Part 1 - Item 1A, of our Form 10-K for the year ended December 31, 2015.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

None.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosures.

Not applicable.

Item 5. Other Information.

As previously announced in the Form 8-K that we filed with the SEC on May 10, 2016, the Company plans to hold its 2016 annual meeting of shareholders on July 1, 2016, with the deadline for submission of shareholder proposals for that meeting being the close of business on the date of filing of this Form 10-Q.

Item 6. Exhibits.

The list of exhibits in the Exhibit Index to this Report is incorporated herein by reference.

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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 thereunto duly authorized.

AKORN, INC.

/s/ DUANE A. PORTWOOD
Duane A. Portwood
Chief Financial Officer
(on behalf of the registrant
and as its
Principal Financial
Officer)

Date: May 16, 2016

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EXHIBIT INDEX

Those exhibits marked with a (*) refer to exhibits filed herewith.

| Exhibit No. | Description |
|---|---|
| 31.1 * | Certification of Chief Executive Officer pursuant to Rule 13a-14(a). |
| 31.2 * | Certification of Chief Financial Officer pursuant to Rule 13a-14(a). |
| 32.1 * | Certification of Chief Executive Officer pursuant to 18 U.S.C. § 1350. |
| 32.2 * | Certification of Chief Financial Officer pursuant to 18 U.S.C. § 1350. |
| 101 * | The financial statements and footnotes from the Akorn, Inc. Quarterly Report on Form 10-Q for the three month period ended March 31, 2016, filed on May 16, 2016, formatted in XBRL: (i) Condensed Consolidated Balance Sheets, (ii) Condensed Consolidated Statements of Comprehensive Income, (iii) Condensed Consolidated Statement of Shareholders' Equity, (iv) Condensed Consolidated Statements of Cash Flows, and (v) Notes to Condensed Consolidated Financial Statements. |