

THERMO FISHER SCIENTIFIC INC.
Form 8-K
November 24, 2014

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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): November 24, 2014

Thermo Fisher Scientific Inc.

(Exact Name of Registrant as Specified in Charter)

Delaware
(State or Other Jurisdiction

of Incorporation)

1-8002
(Commission
File Number)

04-2209186
(IRS Employer
Identification No.)

81 Wyman Street

Waltham, Massachusetts
(Address of Principal Executive Offices)

02451
(Zip Code)

Registrant's telephone number, including area code: (781) 622-1000

Not applicable

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- .. Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- .. Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- .. Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- .. Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

On November 24, 2014, Thermo Fisher Scientific Inc., a Delaware corporation (the *Company*), issued 640,000,000 aggregate principal amount of 2.000% Senior Notes due 2025 (the *Notes*), in a public offering pursuant to a registration statement on Form S-3 (File No. 333-187080) and a preliminary prospectus supplement and prospectus supplement related to the offering of the Notes, each as previously filed with the Securities and Exchange Commission (the *SEC*). The Notes were issued under an indenture, dated as of November 20, 2009 (the *Base Indenture*), and an Eighth Supplemental Indenture, dated as of November 24, 2014 (the *Supplemental Indenture*), and together with the Base Indenture, the *Indenture*), among the Company, The Bank of New York Mellon Trust Company, N.A., as trustee, and the Bank of New York Mellon, London Branch, as paying agent (the *London Paying Agent*), and are subject to the Paying Agency Agreement, dated as of November 24, 2014, by and between the Company and the London Paying Agent (the *Paying Agency Agreement*). The sale of the Notes was made pursuant to the terms of an Underwriting Agreement (the *Underwriting Agreement*), dated November 17, 2014, among the Company and HSBC Bank plc, Deutsche Bank AG, London Branch, and The Royal Bank of Scotland plc, as lead managers of the several underwriters named in the Underwriting Agreement. The Underwriting Agreement was separately filed with the SEC on November 19, 2014 as Exhibit 1.1 to the Company's Current Report on Form 8-K.

The Notes will mature on April 15, 2025. Interest on the Notes will accrue at the rate of 2.000% per annum. Interest on the Notes will be paid annually in arrears on April 15 of each year, commencing April 15, 2015, to the persons in whose names the Notes are registered in the security register on the preceding April 1, whether or not a business day, as the case may be.

The Company has applied to list the Notes on the New York Stock Exchange (*NYSE*). The listing application will be subject to approval by the NYSE. Upon such listing, the Company will use commercially reasonable best efforts to maintain such listing and satisfy the requirements for such continued listing as long as the Notes are outstanding.

Prior to January 15, 2025, the Company may redeem at its option, the Notes, in whole at any time or in part from time to time, at a redemption price equal to the greater of (1) 100% of the principal amount of the Notes to be redeemed and (2) the sum of the present values of the remaining scheduled payments of the Notes being redeemed (not including any portion of the payments of interest accrued but unpaid as of the date of redemption) discounted to the date of redemption on an annual basis (ACTUAL/ACTUAL (ICMA)), using a discount rate equal to the Comparable Bond Rate (as defined in the Indenture) plus 19 basis points, plus accrued and unpaid interest thereon, if any, to, but excluding, the date of redemption. In addition, on and after January 15, 2025, the Company may redeem at its option the Notes in whole at any time or in part from time to time, at a redemption price equal to 100% of the principal amount of the Notes to be redeemed, plus accrued and unpaid interest, if any, to, but excluding, the date of redemption.

Upon the occurrence of a change of control (as defined in the Indenture) of the Company and a contemporaneous downgrade of the Notes below an investment grade rating by at least two of Moody's Investors Service Inc., Standard & Poor's Ratings Services and Fitch Ratings Limited, the Company will, in certain circumstances, be required to make an offer to purchase the Notes at a price equal to 101% of the principal amount of the Notes plus any accrued and unpaid interest to, but excluding, the date of repurchase.

The Notes are general unsecured obligations of the Company that are effectively subordinated in right of payment to any secured indebtedness of the Company to the extent of the assets securing such indebtedness and structurally subordinated to other liabilities of its existing and any future subsidiaries, to

the extent of assets of such subsidiaries; equal in right of payment with all existing and any future unsecured and unsubordinated indebtedness of the Company; and senior in right of payment to any existing and future indebtedness of the Company that is subordinated to the Notes.

The Indenture contains limited affirmative and negative covenants of the Company. The negative covenants restrict the ability of the Company and its subsidiaries to incur debt secured by liens on its principal property or on shares of stock of its principal subsidiaries, engage in sale and lease-back transactions with respect to any Principal Property (as defined in the Indenture) and merge or consolidate or sell all or substantially all of its assets.

Upon the occurrence of an event of default under the Indenture, which includes payment defaults, defaults in the performance of affirmative and negative covenants, bankruptcy and insolvency related defaults and failure to pay certain indebtedness, the obligations of the Company under the Notes may be accelerated, in which case the entire principal amount of the Notes would be immediately due and payable.

The Company expects that the net proceeds from the sale of the Notes will be approximately 634.4 million after deducting underwriting discounts and estimated offering expenses. The Company intends to use the anticipated net proceeds of the Offering to repay approximately \$70.0 million of the Company's short-term indebtedness, consisting of commercial paper, and approximately \$600.0 million of the Company's long-term indebtedness, consisting of amounts outstanding under its \$5.0 billion term loan, and for other future debt repayments.

Wilmer Cutler Pickering Hale and Dorr LLP, counsel to the Company, has issued an opinion to the Company, dated November 24, 2014, regarding the legality of the Notes. A copy of the opinion as to legality is filed as Exhibit 5.1 hereto.

The foregoing description of certain of the terms of the Indenture does not purport to be complete and is qualified in its entirety by reference to the full text of the Base Indenture, which was filed with the SEC on November 20, 2009 as Exhibit 99.1 to the Company's Current Report on Form 8-K, the Supplemental Indenture, which is filed with this report as Exhibit 4.2, the Paying Agency Agreement, which is filed with this report as Exhibit 4.3, and the Form of Note (included in Exhibit 4.2), all of which are incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

See Exhibit Index attached hereto.

SIGNATURE

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

THERMO FISHER SCIENTIFIC INC.

Date: November 24, 2014

By: /s/ Seth H. Hoogasian

Name: Seth H. Hoogasian

Title: Senior Vice President, General Counsel and
Secretary

EXHIBIT INDEX

| Exhibit No. | Description |
|------------------------|---|
| 4.1 | Indenture, dated as of November 20, 2009, between the Company and The Bank of New York Mellon Trust Company, N.A. (filed as Exhibit 99.1 to the Registrant's Current Report on Form 8-K with the SEC on November 20, 2009 File No. 001-08002 and incorporated in this Form 8-K by reference). |
| 4.2 | Eighth Supplemental Indenture, dated as of November 24, 2014, among the Company, The Bank of New York Mellon Trust Company, N.A., as trustee, and The Bank of New York Mellon, London Branch, as paying agent, including form of the Note. |
| 4.3 | Paying Agency Agreement, dated as of November 24, 2014, between the Company and The Bank of New York Mellon, London Branch. |
| 5.1 | Opinion of Wilmer Cutler Pickering Hale and Dorr LLP. |
| 23.1 | Consent of Wilmer Cutler Pickering Hale and Dorr LLP (contained in Exhibit 5.1 above). |