

THERMO FISHER SCIENTIFIC INC.

Form 8-K

April 27, 2010

Table of Contents

**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): April 27, 2010

Thermo Fisher Scientific Inc.

(Exact Name of Registrant as Specified in Charter)

Delaware

1-8002

04-2209186

(State or Other Juris-
diction of Incorporation)

(Commission
File Number)

(IRS Employer
Identification No.)

81 Wyman Street
Waltham, Massachusetts

02451

(Address of Principal Executive Offices)

(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))
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TABLE OF CONTENTS

Item 1.01. Entry into a Material Definitive Agreement

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

Item 9.01. Financial Statements and Exhibits

SIGNATURE

EXHIBIT INDEX

Ex-99.2

Table of Contents

Item 1.01. Entry into a Material Definitive Agreement.

Indenture

On April 27, 2010, Thermo Fisher Scientific Inc., a Delaware corporation (the *Company*), issued \$450,000,000 aggregate principal amount of 3.200% Senior Notes due 2015 (the *2015 Notes*) and \$300,000,000 aggregate principal amount of 4.700% Senior Notes due 2020 (the *2020 Notes*), and together with the 2015 Notes, the *Notes* in a public offering pursuant to a registration statement on Form S-3 (File No. 333-166176) and a preliminary prospectus supplement and prospectus supplement related to the offering of the Notes, each as 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 a second supplemental indenture dated as of April 27, 2010 (the *Supplemental Indenture*), and together with the Base Indenture, the *Indenture*) with The Bank of New York Mellon Trust Company, N.A., as trustee. The sale of the Notes was made pursuant to the terms of an Underwriting Agreement (the *Underwriting Agreement*), dated as of April 20, 2010, among the Company and Banc of America Securities LLC, Deutsche Bank Securities Inc. and J.P. Morgan Securities Inc., as representatives of the several underwriters named in the Underwriting Agreement. The Underwriting Agreement was separately filed with the SEC on April 22, 2010 as Exhibit 1.1 to the Company's Current Report on Form 8-K.

The 2015 Notes will mature on May 1, 2015 and the 2020 Notes will mature on May 1, 2020. Interest on the 2015 Notes will accrue at the rate of 3.200% per annum, and interest on the 2020 Notes will accrue at the rate of 4.700% per annum. Interest is payable on the 2015 Notes semi-annually in arrears on May 1 and November 1 of each year, commencing November 1, 2010, and interest on the 2020 Notes is payable semi-annually in arrears on May 1 and November 1 of each year, commencing November 1, 2010.

The Company may redeem the 2015 Notes and the 2020 Notes, in each case, in whole at any time or in part from time to time, at its option, 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 principal and interest in respect of the Notes being redeemed (not including any portion of the payments of interest accrued but unpaid as of the date of redemption) discounted on a semi-annual basis (assuming a 360-day year of twelve 30-day months), at a comparable treasury rate plus 15 basis points, in the case of both the 2015 Notes and the 2020 Notes, plus, in each case, accrued and unpaid interest to the date of redemption, if any.

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 each of the 2015 Notes and the 2020 Notes at a price equal to 101% of the principal amount of the 2015 Notes and 2020 Notes to be repurchased, respectively, plus any accrued and unpaid interest to 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 to all existing and any future liabilities of its 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

Table of Contents

principal property or on shares of stock of its principal subsidiaries, engage in sale and lease-back transactions with respect to any principal property 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 \$741.8 million after deducting underwriting discounts and estimated offering expenses. The Company intends to use up to \$226.5 million of the net proceeds of the offering to redeem or to settle in cash upon conversion outstanding Floating Rate Convertible Senior Debentures due 2033. The Company intends to use approximately \$515.3 million of the net proceeds of the offering to redeem all of the outstanding 6 1/8% Senior Subordinated Notes due 2015 on July 1, 2010, at 103.063% of principal amount. The Company intends to use any proceeds remaining from the sale of the Notes after the redemptions and conversion settlements for general corporate purposes.

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, and the Supplemental Indenture, which is filed with this report as Exhibit 99.2, both of which are incorporated herein by reference.

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

The information set forth above under Item 1.01 under the heading "Indenture" is incorporated by reference into this Item 2.03.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

See Exhibit Index attached hereto.

Table of Contents

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: April 27, 2010

By: /s/ Seth H. Hoogasian

Name: Seth H. Hoogasian

Title: Senior Vice President, General
Counsel and Secretary

Table of Contents

EXHIBIT INDEX

Exhibit No.	Description
99.1	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 filed with the SEC on November 20, 2009 [File No. 1-8002] and incorporated in this document by reference)
99.2	Second Supplemental Indenture dated as of April 27, 2010 between the Company and The Bank of New York Mellon Trust Company, N.A.