

THERMO FISHER SCIENTIFIC INC.
Form SC TO-I/A
December 18, 2009

**SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

**Amendment No. 5
to
SCHEDULE TO
(Rule 14d-100)
Tender Offer Statement under Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934**

THERMO FISHER SCIENTIFIC INC.
(Name of Subject Company (Issuer) and Filing Person (Offeror))
2.50% CONVERTIBLE SENIOR NOTES DUE 2023
(Title of Class of Securities)

338032 AW 5
338032 AP 0
(CUSIP Numbers of Class of Securities)

**Seth H. Hoogasian
Senior Vice President, General Counsel and Secretary
81 Wyman Street
Waltham, Massachusetts 02451
(781) 622-1000**

*(Name, address and telephone number of person authorized to receive notices
and communications on behalf of the filing person)*

With copies to:

**Hal J. Leibowitz
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, Massachusetts 02109
(617) 526-6000**

**Stuart R. Nayman
Wilmer Cutler Pickering Hale and Dorr LLP
399 Park Avenue
New York, New York 10022
(212) 230-8800**

CALCULATION OF FILING FEE

Transaction Valuation*
\$586,639,661.62

Amount of Filing Fee**
\$32,734.49

* Calculated solely
for purposes of

determining the amount of the filing fee.

Pursuant to Rule 0-11(b)(1) of the Securities Exchange Act of 1934, the transaction valuation is equal to the aggregate cash consideration paid by Thermo Fisher Scientific Inc. (the

Company) for all Convertible Notes accepted for purchase pursuant to the Offer, at a final purchase price of \$2,072.4743 per \$1,000 principal amount of Convertible Notes.

\$282,334,000 in aggregate principal amount of Convertible Notes were accepted for purchase by the Company pursuant to the Offer.

** The amount of the filing fee is calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended, by multiplying the Transaction Valuation by

0.00005580.

- p Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.**

Amount
Previously Paid:
\$34,244.76
Form or
Registration No.:
Schedule TO-I
(File
No. 005-13830)
Filing Party:
Thermo Fisher
Scientific Inc.
Date Filed:
November 13,
2009 and
December 17,
2009

- o Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.**

Check the appropriate boxes below to designate any transactions to which the statement relates:

- o third-party tender offer subject to Rule 14d-1**

- issuer tender offer subject to Rule 13e-4
- going-private transaction subject to Rule 13e-3
- amendment to Schedule 13D under Rule 13d-2

Check the following box if the filing is a final amendment reporting the results of the tender offer:

INTRODUCTORY STATEMENT

This Amendment No. 5 (this Amendment No. 5) amends and supplements the Issuer Tender Offer Statement on Schedule TO (File No. 005-13830) filed with the Securities and Exchange Commission (the SEC) on November 13, 2009 by Thermo Fisher Scientific Inc., a Delaware corporation (the Company), pursuant to Rule 13e-4 under the Securities Exchange Act of 1934, as amended, as amended and supplemented by Amendment No. 1 thereto (Amendment No. 1) filed by the Company with the SEC on November 16, 2009, Amendment No. 2 thereto (Amendment No. 2) filed by the Company with the SEC on November 20, 2009, Amendment No. 3 thereto (Amendment No. 3) filed by the Company with the SEC on November 24, 2009 and Amendment No. 4 thereto (Amendment No. 4) filed by the Company with the SEC on December 17, 2009 (as amended and supplemented by Amendment No. 1, Amendment No. 2, Amendment No. 3 and Amendment No. 4, the Original Schedule TO and as further amended and supplemented by this Amendment No. 5, the Schedule TO) and is being filed in connection with the Company's tender offer to purchase for cash (the Offer) any and all of its outstanding 2.50% Convertible Senior Notes due 2023 (the Convertible Notes) upon the terms and subject to the conditions set forth in the Company's Offer to Purchase, dated November 13, 2009 (as amended and supplemented by Amendment No. 1, Amendment No. 2, Amendment No. 3 and Amendment No. 4, the Offer to Purchase), and the related Letter of Transmittal, each of which is attached as an exhibit to the Schedule TO.

This Amendment No. 5 to Schedule TO is the final amendment to the Schedule TO.

Except as expressly amended and supplemented by this Amendment No. 5, neither the Original Schedule TO nor the Offer to Purchase shall be amended, supplemented or otherwise modified hereby.

Item 1. Summary Term Sheet.

Item 4. Terms of the Transaction.

Item 7. Source and Amount of Funds or Other Consideration.

Item 1, Item 4(a) and Item 7(a) of the Original Schedule TO are hereby amended and supplemented by adding the following:

The Offer expired at 12:00 midnight, New York City time, at the end of Thursday, December 17, 2009.

As of the expiration of the Offer, \$282,334,000 in aggregate principal amount of Convertible Notes, representing approximately 95.6% of the aggregate outstanding principal amount of Convertible Notes, were validly tendered and not validly withdrawn. The Company has accepted for purchase all Convertible Notes that were validly tendered and not validly withdrawn.

As previously announced by the Company, the final purchase price per \$1,000 principal amount of Convertible Notes was \$2,072.4743. On December 18, 2009, the Company settled the Offer and paid an aggregate of approximately \$586.6 million, including accrued and unpaid interest to, but excluding, the settlement date, to purchase all Convertible Notes that were validly tendered and not validly withdrawn. The full text of the Company's press release, dated December 18, 2009, announcing the expiration and final results of the Offer is filed as Exhibit (a)(5)(iii) hereto and is incorporated herein by reference.

Item 11. Additional Information.

(b) Each of Item 11(b) of the Original Schedule TO and the Offer to Purchase is hereby amended and supplemented by deleting the third bullet of the first paragraph of the section entitled "Incorporation of Documents by Reference" in the Offer to Purchase and replacing such third bullet with the following:

Our current reports on Form 8-K, filed with the SEC on February 27, 2009, March 27, 2009, May 27, 2009, July 9, 2009, September 15, 2009, November 10, 2009, November 13, 2009, November 20, 2009, November 24, 2009, December 17, 2009 and December 18, 2009 (other than any information in such reports that is deemed to have been furnished to, rather than filed with, the SEC in accordance with SEC rules).

Item 12. Exhibits.

Item 12 of the Original Schedule TO is hereby amended and supplemented by adding the following:

- (a)(5)(iii) Press Release, dated December 18, 2009 (filed as Exhibit 99.1 to the Company's Current Report on Form 8-K (File No. 1-8002) filed with the SEC on December 18, 2009 and incorporated herein by reference).
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SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this amendment is true, complete and correct.

THERMO FISHER SCIENTIFIC INC.

By: /s/ Seth H. Hoogasian

Name: Seth H. Hoogasian

Title: Senior Vice President, General
Counsel and Secretary

Date: December 18, 2009

Exhibit Index

- (a)(1)(i) Offer to Purchase, dated November 13, 2009.*
- (a)(1)(ii) Form of Letter of Transmittal.*
- (a)(1)(iii) Form of Notice of Voluntary Offering Instructions.*
- (a)(1)(iv) Form of Notice of Withdrawal.*
- (a)(5)(i) Press Release, dated November 13, 2009.*
- (a)(5)(ii) Press Release, dated December 17, 2009 (filed as Exhibit 99.1 to the Company's Current Report on Form 8-K (File No. 1-8002) filed with the SEC on December 17, 2009 and incorporated herein by reference).
- (a)(5)(iii) Press Release, dated December 18, 2009 (filed as Exhibit 99.1 to the Company's Current Report on Form 8-K (File No. 1-8002) filed with the SEC on December 18, 2009 and incorporated herein by reference).
- (b)(1) Credit Agreement, dated as of August 29, 2006, among the Company, as borrower, Bank of America, N.A., as administrative agent and swing line lender, Bank of America, N.A. and Barclays Bank PLC, as L/C issuers, the several banks and other financial institutions or entities from time to time parties thereto, as lenders, Banc of America Securities LLC and Barclays Capital, as joint lead arrangers and joint book managers, Barclays Bank PLC, as syndication agent, and ABN AMRO Bank, N.V., Deutsche Bank Securities, Inc., and JP Morgan Chase Bank, N.A., as documentation agents (filed as Exhibit 99.1 to the Company's Current Report on Form 8-K (File No. 1-8002) filed with the SEC on September 1, 2006 and incorporated herein by reference).
- (d)(1) Rights Agreement, dated as of September 15, 2005, between the Company (formerly known as Thermo Electron Corporation) and American Stock Transfer & Trust Company, as Rights Agent, which includes as Exhibit A, the Terms of Series B Junior Participating Preferred Stock, and as Exhibit B, the Form of Rights Certificate (filed as Exhibit 4.1 to the Company's Current Report on Form 8-K (File No. 1-8002) filed with the SEC on September 16, 2005 and incorporated herein by reference).
- (d)(2) Amendment No. 1 to the Rights Agreement, dated as of May 7, 2006, between the Company and American Stock Transfer & Trust Company, as Rights Agent (filed as Exhibit 1.1 to the Company's Registration Statement on Form 8-A/A (File No. 1-8002) filed with the SEC on May 12, 2006 and incorporated herein by reference).
- (d)(3) Indenture, dated as of July 7, 2003, between Fisher Scientific International Inc. and The Bank of New York Mellon, as successor trustee for J.P. Morgan Trust Company (filed as Exhibit 4.11 to Fisher Scientific International Inc.'s Registration Statement on Form S-4 (File No. 333-104361) filed with the SEC on July 10, 2003 and incorporated herein by reference).
- (d)(4) First Supplemental Indenture, dated as of May 9, 2005, between Fisher Scientific International Inc. and The Bank of New York Mellon, as successor trustee for J.P. Morgan Trust Company.*
- (d)(5)

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Letter Agreement, dated as of May 9, 2005, between Fisher Scientific International Inc. and The Bank of New York Mellon, as successor trustee for J.P. Morgan Trust Company.*

(d)(6) Second Supplemental Indenture, dated as of November 9, 2006, among the Company, Fisher Scientific International Inc. and The Bank of New York Mellon, as successor trustee for J.P. Morgan Trust Company (filed as Exhibit 4.3 to the Company's Current Report on Form 8-K (File No. 1-8002) filed with the SEC on November 14, 2006 and incorporated herein by reference).

(g) Not applicable.

(h) Not applicable.

* Previously filed
on Schedule
TO.