

ELAN CORP PLC
Form 20-F/A
June 28, 2013

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 20-F/A

(Amendment No. 1)

(Mark One)

REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR(g) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended: December 31, 2012

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from to

OR

SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
Date of event requiring this shell company report

Commission file number: 001-13896

Elan Corporation, plc

(Exact name of Registrant as specified in its charter)

Ireland

Treasury Building, Lower Grand Canal Street,

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(Jurisdiction of incorporation

Dublin 2, Ireland

or organization)

(Address of principal executive offices)

William Daniel, Secretary

Elan Corporation, plc

Treasury Building, Lower Grand Canal Street

Dublin 2, Ireland

011-353-1-709-4000

liam.daniel@elan.com

(Name, Telephone, E-mail and/or Facsimile number and Address of Company Contact person)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Exchange on Which Registered
American Depositary Shares (ADSs), representing Ordinary Shares,	New York Stock Exchange
Par value 0.05 each (Ordinary Shares) Ordinary Shares	New York Stock Exchange

Securities registered or to be registered pursuant to Section 12(g) of the Act:

None

(Title of Class)

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act:

None

(Title of Class)

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report: 594,949,536 Ordinary Shares.

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Yes No

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Note Checking the box above will not relieve any registrant required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 from their obligations under those Sections.

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 No

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of accelerated filer and large accelerated filer in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer Accelerated filer Non-accelerated filer

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing: U.S. GAAP International Financial Reporting Standards as issued by the International Accounting Standards Board Other

If Other has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow: Item 17 Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act): Yes No

EXPLANATORY NOTE

This Amendment No. 1 to Form 20-F (this Amendment) for the fiscal year ended December 31, 2012, originally filed on February 12, 2013 (the Form 20-F) of Elan Corporation, plc is being filed solely to amend Item 18 of the Form 20-F. Item 18 has been amended to:

Restate the Consolidated Balance Sheet and the Consolidated Statement of Changes in Shareholders' Equity as of, and for the year ended, December 31, 2012 to reverse an entry reducing additional paid-in capital (APIC) by \$6,199.9 million with a corresponding offset to the accumulated deficit of the Company.

In accordance with the provisions of Irish Company Law, we initiated formal court proceedings during 2012 to reduce our share capital by cancelling some of our share premium account (which does not constitute distributable reserves under Irish Company Law), with a corresponding reduction in and elimination of our retained loss (accumulated deficit) to create distributable reserves. On July 19, 2012, we obtained Irish High Court approval to reduce the share premium account (APIC) of the Company by \$6,199.9 million and use these reserves to offset the accumulated deficit of the Company, with the balance to be treated as retained earnings which shall be available for distribution. Accordingly, in the Form 20-F filed on February 12, 2013, we presented this reduction in share premium (APIC) with the corresponding offset to accumulated deficit to reflect the components of equity in accordance with Irish Company Law. Because a reduction in accumulated deficit mandated through formal court proceedings is not recognized under U.S. GAAP, in this Amendment, we have reversed the entry by increasing APIC and reducing accumulated surplus by \$6,199.9 million within shareholders' equity on the Consolidated Balance Sheet as of December 31, 2012.

No financial periods prior to 2012 were impacted. The impact of reversing the reduction in the share premium account (APIC) of the Company by \$6,199.9 million with a corresponding offset to the accumulated deficit of the Company does not have any impact on the Consolidated Statement of Operations or the Consolidated Statement of Cash Flows of the Company for the year ended December 31, 2012. In addition, the reversal has no impact on the Company's International Financial Reporting Standards accounting treatment for the transaction or on the legally available distributable reserves of the Company under Irish Company Law. Additional information has been provided in Note 26 to the Consolidated Financial Statements on the distributable reserves of the Parent Company under Irish Company Law.

Provide additional detail on the accounting policy for Research and Development in Note 2 to the Consolidated Financial Statements;

Provide additional information in Note 11 to the Consolidated Financial Statements on recognition of deferred interest as a deferred tax asset; and

Amend the presentation of discontinued operations in Note 37 to the Consolidated Financial Statements and provide additional information on restricted transactions of Elan Corporation, plc and its subsidiaries, as guarantors.

This Amendment also contains new certifications pursuant to Sections 302 and 906 of the Sarbanes-Oxley Act of 2002, which are attached hereto as Exhibits 12.1, 12.2, 13.1 and 13.2.

All other Items of the Form 20-F are unaffected by the changes described above and have been omitted from this Amendment. This Amendment continues to speak as of the date of the original filing of the Form 20-F and except for the changes noted above, does not purport to amend, update or restate (other than as described above) the information contained in the Form 20-F filed on February 12, 2013, or reflect any events that have occurred after the Form 20-F was filed. This Amendment should be read in conjunction with the Company's SEC filings made subsequent to the filing of the 2012 Form 20-F.

Item 18. Consolidated Financial Statements.

Report of Independent Registered Public Accounting Firm

Consolidated Financial Statements of Elan Corporation, plc and subsidiaries

Notes to the Consolidated Financial Statements

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Shareholders

Elan Corporation, plc:

We have audited the accompanying consolidated balance sheets of Elan Corporation, plc and subsidiaries (the Company) as of December 31, 2012 and 2011, and the related consolidated statements of operations, comprehensive income, changes in shareholders' equity and cash flows for each of the years in the three-year period ended December 31, 2012. In connection with our audits of the consolidated financial statements, we have also audited financial statement Schedule II. These consolidated financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements and financial statement schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Elan Corporation, plc and subsidiaries as of December 31, 2012 and 2011, and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2012, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), Elan Corporation plc's internal control over financial reporting as of December 31, 2012, based on criteria established in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), and our report dated February 12, 2013 expressed an unqualified opinion on the effectiveness of the Company's internal control over financial reporting.

/s/ KPMG

Dublin, Ireland

February 12, 2013

Elan Corporation, plc

Consolidated Statements of Operations

For the Years Ended December 31, 2012, 2011 and 2010

	Notes	2012 (In millions, except per share data)	2011	2010
Continuing Operations				
Product revenue		\$ 0.2	\$ 4.0	\$ 43.1
Contract revenue				1.0
Total revenue	3	0.2	4.0	44.1
Cost of sales		0.2	0.8	12.2
Gross margin			3.2	31.9
Operating expenses:				
Selling, general and administrative expenses		113.6	107.2	124.2
Research and development expenses		95.0	106.8	128.5
Other net charges	6	168.9	24.3	52.8
Settlement reserve charge	7			206.3
Net gain on divestment of business	5			(1.0)
Total operating expenses		377.5	238.3	510.8
Operating loss		(377.5)	(235.1)	(478.9)
Net interest and investment gains and losses:				
Net interest expense	8	56.6	104.9	118.4
Net loss on equity method investments	9	221.8	81.1	26.0
Net charge on debt retirement	10	76.1	47.0	3.0
Net investment losses/(gains)	17	1.2	(2.6)	(12.8)
Net interest and investment gains and losses		355.7	230.4	134.6
Net loss before income taxes		(733.2)	(465.5)	(613.5)
Benefit from income taxes	11	(360.5)	(12.0)	(52.2)
Net loss from continuing operations		\$ (372.7)	\$ (453.5)	\$ (561.3)
Discontinued Operations				
Net income from discontinued operations (net of tax)	12	235.3	1,014.0	236.6
Net (loss)/income for the year		\$ (137.4)	\$ 560.5	\$ (324.7)
Basic and diluted net income/(loss) per Ordinary Share				
Continuing operations	13	\$ (0.63)	\$ (0.77)	\$ (0.96)
Discontinued operations	13	0.40	1.73	0.40
Total attributable to the ordinary shareholders of the Parent Company	13	\$ (0.23)	\$ 0.95	\$ (0.56)
Basic and diluted weighted-average number of Ordinary Shares outstanding continuing, discontinued and total operations		592.4	587.6	584.9

The accompanying notes are an integral part of these Consolidated Financial Statements.

Elan Corporation, plc

Statements of Consolidated Comprehensive Income

For the Years Ended December 31, 2012, 2011 and 2010

	Notes	2012	2011 (In millions)	2010
Net (loss)/income for the year		\$ (137.4)	\$ 560.5	\$ (324.7)
Other comprehensive income/(loss):				
Unrealized gains/(losses) on investment securities	17	17.5	(1.5)	(2.8)
Unrealized loss on defined benefit pension plans	29	(24.7)	(3.9)	(4.1)
Currency translation adjustments			11.1	(0.1)
Other comprehensive (loss)/income		(7.2)	5.7	(7.0)
Total comprehensive (loss)/income		\$ (144.6)	\$ 566.2	\$ (331.7)
Total comprehensive (loss)/income arises from:				
Continuing operations		\$ (379.9)	\$ (447.8)	\$ (568.3)
Discontinued operations		235.3	1,014.0	236.6
Total comprehensive (loss)/income		\$ (144.6)	\$ 566.2	\$ (331.7)

The accompanying notes are an integral part of these Consolidated Financial Statements.

Elan Corporation, plc

Consolidated Balance Sheets

As of December 31, 2012 and 2011

	Notes	2012 (restated)	2011
(In millions, except shares and par values)			
ASSETS			
Current Assets:			
Cash and cash equivalents		\$ 431.3	\$ 271.7
Restricted cash and cash equivalents current	14	2.6	2.6
Assets held for sale	15	220.1	
Accounts receivable	16	193.5	167.7
Investment securities current	17	167.9	0.3
Inventory	18		23.8
Deferred tax assets current	11	380.9	26.2
Prepaid and other current assets	19	13.2	25.7
Total current assets		1,409.5	518.0
Property, plant and equipment, net	20	12.7	83.2
Goodwill and other intangible assets, net	21	99.0	309.9
Equity method investments	9	14.0	675.8
Investment securities non-current	17	8.6	9.8
Restricted cash and cash equivalents non-current	14	13.7	13.7
Deferred tax assets non-current	11	64.6	118.9
Other assets	22	18.1	24.5
Total assets		\$ 1,640.2	\$ 1,753.8

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