

**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 13, 2018



Merit Medical Systems, Inc.

(Exact name of registrant as specified in its charter)

Utah
(State or other jurisdiction of
incorporation or organization)

0-18592
(Commission
File Number)

87-0447695
(I.R.S. Employer
Identification No.)

1600 West Merit Parkway
South Jordan, Utah
(Address of principal executive offices)

84095
(Zip Code)

(801) 253-1600
(Registrant's telephone number, including area code)

N/A
(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:

- 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))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 2.01. Completion of Acquisition or Disposition of Assets.

As previously reported in a Current Report on Form 8-K filed with the Securities and Exchange Commission (the "SEC") on October 1, 2018, Merit Medical Systems, Inc. ("Merit") entered into an Agreement and Plan of Merger (the "Agreement") by and among Merit, Cianna Medical, Inc. ("Cianna"), CMI Transaction Co. ("Merger Sub") and Fortis Advisors LLC, as the Securityholders' Representative, related to Merit's prospective acquisition of Cianna. On November 13, 2018, Merit closed the transaction contemplated by the Agreement. As previously reported, Merit has agreed to pay up to \$200 million in connection with its acquisition of Cianna, as follows:

- \$135 million in cash in connection with closing, subject to standard adjustments for cash at closing, working capital and other matters;
- an earn-out payment of \$15 million payable upon the achievement by Cianna of certain manufacturing capacity and manufacturing cost milestones on or before June 30, 2019; and
- earn-out payments of up to \$50 million in the aggregate, payable at the rate of 175% of the amount by which annual net sales of Cianna products in each of 2019, 2020, 2021 and 2022 exceed annual net sales of Cianna products in the preceding fiscal year.

Safe Harbor for Forward-Looking Statements

This Current Report, including the exhibit hereto, contains statements which are not purely historical, including, without limitation, statements regarding Merit's forecasted plans, revenues, earnings per share, gross margins or financial results (on a GAAP or non-GAAP basis) or Merit's acquisition of Cianna, are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 and are subject to risks and uncertainties such as those described in Merit's Annual Report on Form 10-K for the year ended December 31, 2017 and subsequent filings with the SEC. Such risks and uncertainties include the following: Merit's potential inability to successfully manage the integration of Cianna and achieve anticipated financial results, product development and other anticipated benefits; uncertainties as to whether Merit will achieve sales, gross margin, cost of goods sold, cash flow and other results from the Cianna acquisition which are comparable to the experience of Cianna; unknown costs and risks associated with the business and operations of Cianna or Merit's internal models or projections; governmental scrutiny and regulation of the medical device industry, including governmental inquiries, investigations and proceedings involving Merit or the business and operations conducted by Cianna; how the occurrence of any unanticipated event or cost in connection with the integration of Cianna may affect Merit's projected ability to comply with debt covenants; infringement of acquired technology or the assertion that acquired technology infringes the rights of other parties; the potential of fines, penalties or other adverse consequences if Merit's or Cianna's employees or agents violate the U.S. Foreign Corrupt Practices Act or other laws or regulations; laws and regulations targeting fraud and abuse in the healthcare industry; potential for significant adverse changes in governing regulations; changes in tax laws and regulations in the United States or other countries; increases in the prices of commodity components; negative changes in economic and industry conditions in the United States or other countries; termination or interruption of relationships with Merit's or Cianna's suppliers, or failure of such suppliers to perform; the effects of fluctuations in exchange rates on projected financial results; development of new products and technology that could render Merit's or Cianna's products obsolete; changes in healthcare policies or markets related to healthcare reform initiatives; failure to comply with applicable environmental laws; changes in key personnel; work stoppage or transportation risks; price and product competition; availability of labor and materials; fluctuations in and obsolescence of inventory; and other factors referred to in Merit's Annual Report on Form 10-K for the year ended December 31, 2017 and other materials filed with the SEC. All subsequent forward-looking statements attributable to Merit or persons acting on its behalf are expressly qualified in their entirety by these cautionary statements. Actual results will likely differ, and may differ materially, from anticipated results. Financial estimates are subject to change and are not intended to be relied upon as predictions of future operating results, and Merit assumes no obligation to update or disclose revisions to those estimates.

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

The closing amounts paid by Merit under the Agreement were funded through a draw down under the Second Amended and Restated Credit Agreement dated July 6, 2016 (as amended on September 28, 2016, March 20, 2017, December 13, 2017 and March 28, 2018, the "Credit Agreement") with certain lenders identified therein, Wells Fargo Bank, National Association, as administrative agent, swingline lender and Lender, and Wells Fargo Securities, LLC, as sole lead arranger and sole bookrunner. Information regarding the Credit Agreement, and copies thereof, are provided in Merit's Current Reports on Form 8-K filed with the SEC on July 6, 2016, March 20, 2017 and December 13, 2017 (including Exhibit 10.1 thereof), the exhibits to Merit's Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2016 filed with the SEC on August 8, 2016, the exhibits to Merit's

Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2018 filed with the SEC on May 10, 2018 and the exhibits to Merit's Annual Report on Form 10-K for the fiscal year ended December 31, 2016, filed with the SEC on March 1, 2017.

Item 7.01. Regulation FD Disclosure.

On November 13, 2018, Merit issued a press release, entitled "Merit Medical Closes Cianna Medical, Inc. Deal" related to the Agreement, a copy of which is filed as Exhibit 99.1 to this Current Report.

The information contained in this Item 7.01 and in the attached Exhibit 99.1 is being furnished and shall not be deemed "filed" for purposes of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and is not deemed incorporated by reference by any general statements incorporating by reference this Current Report or future filings into any filings under the Securities Act of 1933, as amended, or the Exchange Act, except to the extent that Merit specifically incorporates the information by reference. By filing this Current Report and furnishing this information, Merit makes no admission or statement as to the materiality of any information in this Current Report that is required to be disclosed solely by reason of Regulation FD.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

99.1 Press release entitled "Merit Medical Closes Cianna Medical, Inc. Deal" issued on November 13, 2018

SIGNATURES

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

MERIT MEDICAL SYSTEMS, INC.

Date: November 14, 2018

By: /s/ Brian G. Lloyd
Brian G. Lloyd
Chief Legal Officer and Corporate Secretary

EXHIBIT INDEX

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>
99.1	Press release entitled “Merit Medical Closes Cianna Medical, Inc. Deal” issued on November 13, 2018



PRESS RELEASE

1600 West Merit Parkway,
South Jordan, Utah 84095
Telephone +1 801.253.1600
Fax +1 801.253.1688

FOR IMMEDIATE RELEASE

Date: November 13, 2018
Contact: Anne-Marie Wright, Vice President, Corporate Communications
Phone: (801) 208-4167 e-mail: awright@merit.com Fax: (801) 253-1688

MERIT MEDICAL CLOSES CIANNA MEDICAL, INC. DEAL

SOUTH JORDAN, UTAH- Merit Medical Systems, Inc. (NASDAQ: MMSI), a leading manufacturer and marketer of proprietary disposable devices used in interventional, diagnostic and therapeutic procedures, particularly in cardiology, radiology, oncology, critical care and endoscopy, today announced that it has completed the acquisition of Cianna Medical, Inc. headquartered in Aliso Viejo, California, in a merger transaction through which Cianna Medical has become a wholly-owned subsidiary of Merit.

The purchase consideration was an upfront payment of \$135 million in cash with potential earn-out payments of an additional \$15 million for achievement of supply chain and scalability metrics, and up to an additional \$50 million for achievement of sales milestones.

Cianna Medical is a leader in wire-free breast localization and has been focused on breast conservation for 11 years. Cianna Medical develops, manufactures and markets innovative medical products designed to reduce costs, improve quality and reduce the anxiety and stress breast cancer treatments place on women and their families. Its research, development and commercialization teams developed the first non-radioactive, wire-free breast localization system and the world's only technology that utilizes RADAR in human tissue. Its SCOUT® and SAVI® Brachy technologies are FDA-cleared and address unmet needs in the delivery of radiation therapy, tumor localization and surgical guidance.

“We are delighted to have Cianna Medical join the Merit family,” said Fred P. Lampropoulos, Merit’s Chairman and Chief Executive Officer. “We are looking forward to continuing Cianna’s momentum, expanding internationally, and associating with Cianna Medical’s domestic sales and marketing team.”

2018 GUIDANCE

The effect of the Cianna Medical acquisition on Merit's earnings for 2018 is expected to be non-accretive to Merit earnings per share on a GAAP basis in the range of (\$0.09-\$0.11) per common share and neutral to accretive to Merit earnings per share on a non-GAAP basis in the range of \$0.00-\$0.02 per common share, with anticipated GAAP gross margins of 55-65% and non-GAAP gross margins of 70-75% on the Cianna Medical products, accretive to both Merit's GAAP gross margin and non-GAAP gross margin in the range of 10-20 basis points, and add revenues in the range of \$5-\$7 million. NOTE: Non-GAAP earnings per share accretion and non-GAAP gross margin are non-GAAP financial measures. Information about how Merit uses non-GAAP measures in its business, and an explanation of how these measures relate to their most directly comparable GAAP financial measures, is included under the heading "Non-GAAP Financial Measures" below.

2019 GUIDANCE

The effect of the Cianna Medical acquisition on Merit's earnings for 2019 is expected to be non-accretive to Merit earnings per share on a GAAP basis in the range of (\$0.06-\$0.10) per common share and accretive to Merit earnings per share on a non-GAAP basis in the range of \$0.08-\$0.13 per common share, with anticipated GAAP gross margins of 55-65% and non-GAAP gross margins of 70-75% on the Cianna Medical products, accretive to both Merit's GAAP gross margin and non-GAAP gross margin in the range of 55-130 basis points, and add revenues in the range of \$50-\$56 million. NOTE: Non-GAAP earnings per share accretion and non-GAAP gross margin are non-GAAP financial measures. Information about how Merit uses non-GAAP measures in its business, and an explanation of how these measures relate to their most directly comparable GAAP financial measures, is included under the heading "Non-GAAP Financial Measures" below.

Piper Jaffray & Co. and Raymond James & Associates acted as financial advisors to Merit, and J.P. Morgan Securities LLC acted as financial advisor to Cianna Medical. Parr Brown Gee & Loveless P.C. served as the legal advisor to Merit. Wilson Sonsini Goodrich & Rosati, P.C. served as legal advisor to Cianna Medical.

ABOUT MERIT

Founded in 1987, Merit Medical Systems, Inc. is engaged in the development, manufacture and distribution of proprietary disposable medical devices used in interventional, diagnostic and therapeutic procedures, particularly in cardiology, radiology, oncology, critical care and endoscopy. Merit serves client hospitals worldwide with a domestic and international sales force and clinical support team totaling in excess of 300 individuals. Merit employs approximately 5,600 people worldwide with facilities in South Jordan, Utah; Pearland, Texas; Richmond, Virginia; Malvern, Pennsylvania; Rockland, Massachusetts; San Jose and Aliso Viejo, California; Maastricht and Venlo, The Netherlands; Paris, France; Galway, Ireland; Beijing, China; Tijuana, Mexico; Joinville, Brazil; Markham, Ontario, Canada; Melbourne, Australia; Tokyo, Japan; and Singapore.

FORWARD-LOOKING STATEMENTS

Statements contained in this release which are not purely historical, including, without limitation, statements regarding Merit's forecasted plans, revenues, earnings per share, gross margins or financial results (on a GAAP and non-GAAP basis) or anticipated or completed acquisitions, are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 and are subject to risks and uncertainties such as those described in Merit's Annual Report on Form 10-K for the year ended December 31, 2017 and subsequent filings with the Securities and Exchange Commission. Such risks and uncertainties include the following: Merit's potential inability to successfully manage the integration of Cianna Medical and achieve anticipated financial results, product development and other anticipated benefits; uncertainties as to whether Merit will achieve sales, gross margin, cost of goods sold, cash flow and other results from the Cianna Medical acquisition which are comparable to the experience of Cianna Medical; unknown costs and risks associated with the business and operations of Cianna Medical, Merit's internal models or the projections in this release; governmental scrutiny and regulation of the medical device industry, including governmental inquiries, investigations and proceedings involving Merit or the business and operations conducted by Cianna Medical; how the occurrence of any unanticipated event or cost in connection with the integration of Cianna Medical may affect Merit's projected ability to comply with debt covenants; infringement of acquired technology or the assertion that acquired technology infringes the rights of other parties; the potential of fines, penalties or other adverse consequences if Merit's or Cianna Medical's employees or agents violate the U.S. Foreign Corrupt Practices Act or other laws or regulations; laws and regulations targeting fraud and abuse in the healthcare industry; potential for significant adverse changes in governing regulations; changes in tax laws and regulations in the United States or other countries; increases in the prices of commodity components; negative changes in economic and industry conditions in the United States or other countries; termination or interruption of relationships with Merit's or Cianna Medical's suppliers, or failure of such suppliers to

perform; the effects of fluctuations in exchange rates on projected financial results; development of new products and technology that could render Merit's or Cianna Medical's products obsolete; changes in healthcare policies or markets related to healthcare reform initiatives; failure to comply with applicable environmental laws; changes in key personnel; work stoppage or transportation risks; price and product competition; availability of labor and materials; fluctuations in and obsolescence of inventory; and other factors referred to in Merit's Annual Report on Form 10-K for the year ended December 31, 2017 and other materials filed with the Securities and Exchange Commission. All subsequent forward-looking statements attributable to Merit or persons acting on its behalf are expressly qualified in their entirety by these cautionary statements. Actual results will likely differ, and may differ materially, from anticipated results. Financial estimates are subject to change and are not intended to be relied upon as predictions of future operating results, and Merit assumes no obligation to update or disclose revisions to those estimates.

NON-GAAP FINANCIAL MEASURES

Although Merit's financial statements are prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"), Merit's management believes that certain non-GAAP financial measures referred to in this release provide investors with useful information regarding the underlying business trends and performance of Merit's ongoing operations and can be useful for period-over-period comparisons of such operations. Non-GAAP financial measures used in this release include:

- non-GAAP gross margin; and
- non-GAAP earnings per share.

Merit's management team uses these non-GAAP financial measures to evaluate Merit's profitability and efficiency, to compare operating results to prior periods, to evaluate changes in the operating results of its operating segments, and to measure and allocate financial resources internally. However, Merit's management does not consider such non-GAAP measures in isolation or as an alternative to such measures determined in accordance with GAAP.

Readers should consider non-GAAP measures used in this release in addition to, not as a substitute for, financial reporting measures prepared in accordance with GAAP. These non-GAAP financial measures generally exclude some, but not all, items that may affect Merit's net income. In addition, they are subject to inherent limitations as they reflect the exercise of judgment by management about which items are excluded. Merit believes it is useful to exclude such items in the calculation of non-GAAP earnings per share and non-GAAP gross margin because such amounts in any specific period may not directly correlate to the underlying performance of Merit's business operations and can vary significantly between periods as a result of factors such as new acquisitions, non-cash expenses related to amortization of previously acquired tangible and

intangible assets, unusual compensation expenses or expenses resulting from non-ordinary course litigation, governmental proceedings or changes in tax regulations. Merit may incur similar types of expenses in the future, and the non-GAAP financial information included in this release should not be viewed as a statement or indication that these types of expenses will not recur. Additionally, the non-GAAP financial measures used in this release may not be comparable with similarly titled measures of other companies. Merit urges investors and potential investors to review the explanations below addressing how its non-GAAP financial measures relate to their most directly comparable GAAP financial measures, and not to rely on any single financial measure to evaluate Merit's business or results of operations.

Non-GAAP Gross Margin

Non-GAAP gross margin is calculated by reducing GAAP cost of sales by amounts recorded for amortization of intangible assets and inventory mark-up related to acquisitions.

Non-GAAP Net Income

Non-GAAP net income is calculated by adjusting GAAP net income for certain items which are deemed by Merit's management to be outside of core operations and vary in amount and frequency among periods, such as expenses related to new acquisitions, non-cash expenses related to amortization of acquired tangible and intangible assets, unusual compensation expenses or expenses resulting from non-ordinary course litigation, governmental proceedings or changes in tax regulations, as well as other items.

Non-GAAP Earnings Per Share

Non-GAAP earnings per share is defined as non-GAAP net income divided by the diluted shares outstanding for the corresponding period.

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