
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

November 5, 2018

Date of Report

November 1, 2018

(Date of earliest event reported)

DURECT CORPORATION

(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

000-31615
(Commission
File Number)

94-3297098
(I.R.S. Employer
Identification No.)

10260 Bubb Road
Cupertino, CA 95014
(Address of principal executive offices) (Zip code)

(408) 777-1417
(Registrant's telephone number, including area code)

(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 1.01 Entry into a Material Definitive Agreement.

On November 1, 2018, DURECT Corporation (the “Company”) and Oxford Finance LLC (“Oxford Finance”) entered into a Second Amendment (the “Second Amendment”) of the \$20.0 million Loan and Security Agreement (the “Loan Agreement”) entered into on July 28, 2016, which was previously amended by a First Amendment entered into on February 28, 2018. The Second Amendment modified the terms of the Loan Agreement to extend the first principal payment date from December 1, 2018 to June 1, 2020 (with interest only payments until that date) and to extend the final maturity date from August 1, 2020 to November 1, 2022. If the Company elects to prepay the loan, there is also a prepayment fee of between 0.75% and 2.5% of the principal amount of the term loan depending on the timing of prepayment. In connection with the entry into the Second Amendment, the Company paid Oxford Finance a loan modification fee of \$900,000.

The foregoing description of the Second Amendment does not purport to be complete and is qualified in its entirety by reference to the Second Amendment filed herewith as Exhibit 10.1 to this Current Report on Form 8-K.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

<u>Exhibit</u>	<u>Description</u>
10.1	<u>Second Amendment to Loan and Security Agreement between the Company and Oxford Finance LLC dated November 1, 2018.</u>

Exhibit Index

<u>Exhibit No.</u>	
10.1	<u>Second Amendment to Loan and Security Agreement between the Company and Oxford Finance LLC dated November 1, 2018.</u>

SIGNATURES

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.

Date: November 5, 2018

DURECT Corporation

By: /s/ James E. Brown
James E. Brown
President and Chief Executive Officer

**SECOND AMENDMENT TO
LOAN AND SECURITY AGREEMENT**

THIS SECOND AMENDMENT to Loan and Security Agreement (this "**Amendment**") is entered into as of November 1, 2018, by and between **OXFORD FINANCE LLC**, a Delaware limited liability company with an office located at 133 North Fairfax Street, Alexandria, Virginia 22314 ("**Oxford**"), as collateral agent (in such capacity, "**Collateral Agent**"), the Lenders listed on Schedule 1.1 of the Loan Agreement (as defined below) or otherwise party thereto from time to time including Oxford in its capacity as a Lender (each a "**Lender**" and collectively, the "**Lenders**") and **DURECT CORPORATION**, a Delaware corporation with offices located at 10260 Bubb Road, Cupertino, CA 95014 ("**Borrower**").

Recitals

A. Collateral Agent, Lenders and Borrower have entered into that certain Loan and Security Agreement dated as of July 28, 2016 (as amended from time to time, including by that certain First Amendment to Loan and Security Agreement dated as of February 28, 2018, collectively, the "**Loan Agreement**").

B. Lenders have extended credit to Borrower for the purposes permitted in the Loan Agreement.

C. Borrower has requested that Collateral Agent and Lenders (i) modify the repayment schedule and (ii) make certain other revisions to the Loan Agreement as more fully set forth herein.

D. Collateral Agent and Lenders have agreed to amend certain provisions of the Loan Agreement, but only to the extent, in accordance with the terms, subject to the conditions and in reliance upon the representations and warranties set forth below.

Agreement

Now, Therefore, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

1. Definitions. Capitalized terms used but not defined in this Amendment shall have the meanings given to them in the Loan Agreement.

2. Amendments to Loan Agreement.

2.1 Section 2.2 (Term Loans). Section 2.2(b) of the Loan Agreement hereby is amended and restated in its entirety to read as follows:

"(b) Repayment. Borrower shall make monthly payments of interest only commencing on the first (1st) Payment Date following the Funding Date of the Term Loans, and continuing on the Payment Date of each successive month thereafter through and including the Payment Date immediately preceding the Amortization Date. Borrower agrees to pay, on the Funding Date of the Term Loans, any initial partial monthly interest payment otherwise due for the period between the Funding Date of the Term Loans and the first Payment Date thereof. Commencing on the Amortization Date, and continuing on the Payment Date of each month thereafter, Borrower shall make consecutive equal monthly payments of principal, together with applicable interest, in arrears, to each Lender, as calculated by Collateral Agent (which calculations shall be deemed correct absent manifest error) based upon: (1) the amount of such Lender's Term Loan, (2) the effective rate of interest, as determined in Section 2.3(a), and (3) a repayment schedule equal to thirty (30) months. All unpaid principal and accrued and unpaid interest with respect to the Term Loans is due and payable in full on the Maturity Date. The Term Loans may only be prepaid in accordance with Sections 2.2(c) and 2.2(d)."

2.2 Section 2.5 (Fees). New Section 2.5(f) is hereby added to the Loan Agreement to read as follows:

“(f) Second Amendment Fee. A fully earned, non-refundable amendment fee of Nine Hundred Thousand Dollars (\$900,000.00) (the “Second Amendment Fee”) to be shared between the Lenders pursuant to their respective Commitment Percentages due and payable on the Second Amendment Effective Date;”

2.3 Section 13.1 (Definitions). The following terms and their respective definitions hereby are added or amended and restated in their entirety, as applicable, to Section 13.1 of the Loan Agreement as follows:

“**Amortization Date**” is June 1, 2020.

“**Key Person**” is each of Borrower’s (i) President and Chief Executive Officer, who is James E. Brown as of the Effective Date, and (ii) Chief Financial Officer, who is Michael Arenberg as of the Second Amendment Effective Date.

“**Maturity Date**” is November 1, 2022.

“**Prepayment Fee**” is, with respect to any Term Loan subject to prepayment prior to the Maturity Date, whether by mandatory or voluntary prepayment, acceleration or otherwise, an additional fee payable to the Lenders in amount equal to:

(i) for a prepayment made on or after the Funding Date of such Term Loan through and including the first anniversary of the Second Amendment Effective Date, two and one half percent (2.50%) of the principal amount of such Term Loan prepaid;

(ii) for a prepayment made after the date which is after the first anniversary of the Second Amendment Effective Date through and including the second anniversary of the of the Second Amendment Effective Date, one and one half percent (1.50%) of the principal amount of such Term Loan prepaid; and

(iii) for a prepayment made after the second anniversary of the Second Amendment Effective Date and prior to the Maturity Date, three-quarters of one percent (0.75%) of the principal amount of such Term Loan prepaid.

“**Second Amendment Effective Date**” is November 1, 2018.

3. Limitation of Amendment.

3.1 The amendments set forth in **Section 2** above are effective for the purposes set forth herein and shall be limited precisely as written and shall not be deemed to (a) be a consent to any amendment, waiver or modification of any other term or condition of any Loan Document, or (b) otherwise prejudice any right or remedy which Collateral Agent or any Lender may now have or may have in the future under or in connection with any Loan Document.

3.2 This Amendment shall be construed in connection with and as part of the Loan Documents and all terms, conditions, representations, warranties, covenants and agreements set forth in the Loan Documents, except as herein amended, are hereby ratified and confirmed and shall remain in full force and effect.

4. Representations and Warranties. To induce Collateral Agent and Lenders to enter into this Amendment, Borrower hereby represents and warrants to Collateral Agent and Lenders as follows:

4.1 Immediately after giving effect to this Amendment (a) the representations and warranties contained in the Loan Documents are true, accurate and complete in all material respects as of the date hereof (except to the extent such representations and warranties relate to an earlier date, in which case they are true and correct as of such date), and (b) no Event of Default has occurred and is continuing;

4.2 Borrower has the power and authority to execute and deliver this Amendment and to perform its obligations under the Loan Agreement, as amended by this Amendment;

4.3 The organizational documents of Borrower delivered to Collateral Agent and Lenders on the Effective Date, or subsequent thereto, remain true, accurate and complete and have not been amended, supplemented or restated and are and continue to be in full force and effect;

4.4 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, have been duly authorized;

4.5 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, do not and will not contravene (a) any law or regulation binding on or affecting Borrower, (b) any contractual restriction with a Person binding on Borrower, (c) any order, judgment or decree of any court or other governmental or public body or authority, or subdivision thereof, binding on Borrower, or (d) the organizational documents of Borrower;

4.6 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, do not require any order, consent, approval, license, authorization or validation of, or filing, recording or registration with, or exemption by any governmental or public body or authority, or subdivision thereof, binding on Borrower; and

4.7 This Amendment has been duly executed and delivered by Borrower and is the binding obligation of Borrower, enforceable against Borrower in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, liquidation, moratorium or other similar laws of general application and equitable principles relating to or affecting creditors' rights.

5. Counterparts. This Amendment may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

6. Effectiveness. This Amendment shall be deemed effective upon the due execution and delivery to Collateral Agent and Lenders of (i) this Amendment by each party hereto, (ii) the due execution and delivery to Collateral Agent of the Corporate Borrowing Certificate attached hereto as Exhibit A, (iii) Borrower's payment of the Second Amendment Fee as required by Section 2.5(f) of the Loan Agreement, and (iv) Borrower's payment of all Lenders' Expenses incurred through the date of this Amendment.

[Balance of Page Intentionally Left Blank]

In Witness Whereof, the parties hereto have caused this Amendment to be duly executed and delivered as of the date first written above.

COLLATERAL AGENT AND LENDER:

OXFORD FINANCE LLC

By: /s/ Colette H. Featherly
Name: Colette H. Featherly
Title: Senior Vice President

BORROWER:

DURECT CORPORATION

By: /s/ Michael H. Arenberg
Name: Michael H. Arenberg
Title: Chief Financial Officer

[Signature Page to Second Amendment to Loan and Security Agreement]

CORPORATE BORROWING CERTIFICATE

Borrower: DURECT CORPORATION
Lenders OXFORD FINANCE LLC, as Collateral Agent and Lender

Date: November 1, 2018

I hereby certify as follows, as of the date set forth above:

1. I am the Secretary, Assistant Secretary or other officer of Borrower. My title is as set forth below.
2. Borrower's exact legal name is set forth above. Borrower is a corporation existing under the laws of the State of Delaware.
3. Attached hereto as Exhibit A and Exhibit B, respectively, are true, correct and complete copies of (i) Borrower's Certificate of Incorporation (including amendments), as filed with the Secretary of State of the state in which Borrower is incorporated as set forth in paragraph 2 above; and (ii) Borrower's Bylaws. Neither such Certificate of Incorporation nor such Bylaws have been amended, annulled, rescinded, revoked or supplemented, and such Certificate of Incorporation and such Bylaws remain in full force and effect as of the date hereof.
4. The following resolutions were duly and validly adopted by the the Borrower's Board of Directors at a duly held meeting of such directors (or pursuant to a unanimous written consent or other authorized corporate action). Such resolutions are in full force and effect as of the date hereof and have not been in any way modified, repealed, rescinded, amended or revoked, and Collateral Agent and Lenders may rely on them until Collateral Agent and each Lender receives written notice of revocation from Borrower.

[Balance of Page Intentionally Left Blank]

Resolved, that **any one** of the following officers or employees of Borrower, whose names, titles and signatures are below, may act on behalf of Borrower:

Name

Title

Signature

Authorized
to Add or
Remove
Signatories

-
-
-
-

Resolved Further, that **any one** of the persons designated above with a checked box beside his or her name may, from time to time, add or remove any individuals to and from the above list of persons authorized to act on behalf of Borrower.

Resolved Further, that such individuals may, on behalf of Borrower:

Borrow Money. Borrow money from Lenders.

Execute Loan Documents. Execute any loan documents Collateral Agent or any Lender requires.

Grant Security. Grant Collateral Agent and Lenders a security interest in any of Borrower's assets.

Negotiate Items. Negotiate or discount all drafts, trade acceptances, promissory notes, or other indebtedness in which Borrower has an interest and receive cash or otherwise use the proceeds.

Further Acts. Designate other individuals to request advances, pay fees and costs and execute other documents or agreements (including documents or agreement that waive Borrower's right to a jury trial) they believe to be necessary to effectuate such resolutions.

Resolved Further, that all acts authorized by the above resolutions and any prior acts relating thereto are ratified.

5. The persons listed above are Borrower's officers or employees with their titles and signatures shown next to their names.

By:
Name:
Title:

**** If the Secretary, Assistant Secretary or other certifying officer executing above is designated by the resolutions set forth in paragraph 4 as one of the authorized signing officers, this Certificate must also be signed by a second authorized officer or director of Borrower.*

I, the _____ of Borrower, hereby certify as to paragraphs 1 through 5 above, as [print title]
of the date set forth above.

By:
Name:
Title: