

ENANTA PHARMACEUTICALS INC
Form 10-K/A
January 06, 2017

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-K
(Amendment No. 1)

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT
OF 1934**

For the fiscal year ended September 30, 2016

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE
ACT OF 1934**

Commission File Number 001-35839

ENANTA PHARMACEUTICALS, INC.
(Exact name of registrant as specified in its charter)

| | | |
|--|---|---|
| DELAWARE (State or other jurisdiction of incorporation or organization) | 2834 (Primary Standard Industrial Classification Code Number) 500 Arsenal Street | 04-3205099 (I.R.S. Employer Identification Number) |
|--|---|---|

Watertown, Massachusetts 02472

(617) 607-0800

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

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

| | |
|--|---|
| Title of each class: Common Stock, \$0.01 Par Value | Name of each exchange on which registered: The NASDAQ Stock Market LLC (NASDAQ Global Select Market) |
|--|---|

Securities registered pursuant to Section 12(g) of the Act: None

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

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes No

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 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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act:

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act): Yes No

The aggregate market value of the registrant's common stock held by non-affiliates of the registrant as of the last business day of the registrant's most recently completed second fiscal quarter, March 31, 2016, based on the last reported sale price of the registrant's common stock of \$29.37 per share was \$556,755,420. The number of shares of the registrant's Common Stock, \$0.01 par value, outstanding as of December 27, 2016, was 19,040,267 shares.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's Definitive Proxy Statement for its 2016 Annual Meeting of Stockholders scheduled to be held on February 16, 2017, which Definitive Proxy will be filed with the Securities and Exchange Commission not later than 120 days after the registrant's fiscal year end of September 30, 2016, are incorporated by reference into Part III of the Original Report (as defined below), as amended by this 10-K/A.

As used in this Form 10-K/A, Enanta, the Company, we, our, and us refer to Enanta Pharmaceuticals, Inc., except where the context otherwise requires or as otherwise indicated.

EXPLANATORY NOTE

Enanta Pharmaceuticals, Inc. is filing this Amendment No. 1 on Form 10-K/A (Amendment No. 1) to the Company's Annual Report on Form 10-K for the period ended September 30, 2016, which was filed with the Securities and Exchange Commission (the SEC) on December 9, 2016 (the Original Report). This Amendment No. 1 is being filed to: (i) file Exhibit 10.14, the Company's 2012 Equity Incentive Plan (As adjusted to reflect the application of the 1-for-4.31 reverse stock split of the Company's common stock effected on March 1, 2013), because the Company's 2012 Equity Incentive Plan, as originally filed with the SEC, inadvertently did not reflect the adjustment to the per-participant limitation under Section 162(m) of the Internal Revenue Code that resulted from the application of the 1-for-4.31 reverse stock split of the Company's common stock effected on March 1, 2013 and (ii) make a corresponding update to Exhibit 10.14 and the required certifications as listed in Item 15(b) of Part IV of the Original Report. As required by Rule 12b-15 under the Securities and Exchange Act of 1934, as amended, new certifications by our principal executive officer and our principal financial officer are filed herewith and listed as exhibits to this Amendment No. 1 under Item 15(b) of Part IV hereof. This Amendment No. 1 does not affect any other items in the Original Report.

Except as otherwise expressly stated in the items contained in this Amendment No. 1, this Amendment No. 1 continues to speak as of the date of the Original Report and the Company has not modified or updated the disclosures contained herein to reflect events that have occurred since the filing of the Original Report. Accordingly, this Amendment No. 1 should be read in conjunction with the Original Report.

PART IV
ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES**(b) EXHIBITS****Exhibit**

| Exhibit Number | Exhibit Description | Form | Date | Exhibit Number | File Number | Filed Herewith |
|-----------------------|---|-------------|-------------|-----------------------|--------------------|-----------------------|
| 3.1 | Restated Certificate of Incorporation of Enanta Pharmaceuticals, Inc. | 8-K | 03/28/2013 | 3.1 | 001-35839 | |
| 3.2 | Amended and Restated Bylaws of Enanta Pharmaceuticals, Inc. (as amended and restated in August 2015) | 8-K | 08/18/2015 | 3.2 | 001-35839 | |
| 4.1 | Specimen certificate evidencing shares of common stock. | S-1/A | 02/05/2013 | 4.1 | 333-184779 | |
| 4.2 | Form of Series 1 Non-Convertible Preferred Stock Warrant | S-1 | 11/06/2012 | 4.2 | 333-184779 | |
| 10.1# | Form of Indemnification Agreement for directors and officers. | S-1/A | 02/05/2013 | 10.7 | 333-184779 | |
| 10.2# | Amended and Restated Employment Agreement between the Company and Jay R. Luly, Ph.D., dated as of March 4, 2013. | S-1/A | 03/05/2013 | 10.5 | 333-184779 | |
| 10.3# | Form of Amended and Restated Employment Agreement for Executive Officers other than Chief Executive Officer. | S-1/A | 03/05/2013 | 10.17 | 333-184779 | |
| 10.4 | Collaborative Development and License Agreement between the Company and Abbott Laboratories, dated November 27, 2006; as amended by a First Amendment to Collaborative Development and License Agreement dated January 27, 2009 and a Second Amendment to Collaborative Development and License Agreement dated December 9, 2009 (assigned to AbbVie Inc. as of January 1, 2013). | S-1/A | 02/05/2013 | 10.1 | 333-184779 | |
| 10.5 | Third Amendment to Collaborative Development and License Agreement between the Company and AbbVie dated October 20, 2014. | 10-K | 12/11/2014 | 10.5 | 001-35839 | |
| 10.6 | | 10-Q | 05/08/2015 | 10.1 | 001-35839 | |

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Fourth Amendment to Collaborative Development and License Agreement between the Company and AbbVie dated as of March 3, 2015.

| | | | | | |
|--------|--|-------|------------|-------|------------|
| 10.7 | Lease Agreement between Company and ARE-500 Arsenal Street LLC, dated as of April 15, 2011. | S-1 | 11/06/2012 | 10.6 | 333-184779 |
| 10.8 | First Amendment to Lease Agreement made as of March 5, 2015 between the Company and ARE-500 Arsenal Street LLC. | 10-Q | 05/08/2015 | 10.2 | 001-35839 |
| 10.9 | Third Amended and Restated Registration Rights Agreement, dated as of August 23, 2012. | S-1/A | 11/06/2012 | 10.4 | 333-184779 |
| 10.10# | Amended and Restated 1995 Equity Incentive Plan. | S-1/A | 03/05/2013 | 10.8 | 333-184779 |
| 10.11# | Form of Incentive Stock Option Certificate under Amended and Restated 1995 Equity Incentive Plan. | S-1/A | 03/05/2013 | 10.9 | 333-184779 |
| 10.12# | Form of Non-Statutory Stock Option Certificate under Amended and Restated 1995 Equity Incentive Plan. | S-1/A | 03/05/2013 | 10.10 | 333-184779 |
| 10.13# | Form of Non-Statutory Stock Option Certificate for directors under Amended and Restated 1995 Equity Incentive Plan. | S-1/A | 03/05/2013 | 10.11 | 333-184779 |
| 10.14# | 2012 Equity Incentive Plan (As adjusted to reflect the application of the 1-for-4.31 reverse stock split of the Company's common stock effected on March 1, 2013). | | | | X |
| 10.15# | Form of Incentive Stock Option Agreement under 2012 Equity Incentive Plan. | S-1/A | 03/05/2013 | 10.13 | 333-184779 |
| 10.16# | Form of Non-Statutory Stock Option Agreement under 2012 Equity Incentive Plan. | S-1/A | 03/05/2013 | 10.14 | 333-184779 |
| 10.17# | Form of Non-Statutory Stock Option Certificate for directors under 2012 Equity Incentive Plan. | S-1/A | 03/05/2013 | 10.15 | 333-184779 |
| 10.18# | Form of Performance Share Unit Certificate under 2012 Equity Incentive Plan. | 10-Q | 08/10/2015 | 10.1 | 001-35839 |

Exhibit

| Exhibit Number | Exhibit Description | Form | Date | Exhibit Number | File Number | Filed Herewith |
|-----------------------|--|-------------|-------------|-----------------------|--------------------|-----------------------|
| 10.19# | Form of Relative Total Stockholder Return Unit Certificate under 2012 Equity Incentive Plan. | 10-Q | 08/10/2015 | 10.2 | 001-35839 | |
| 10.20# | Employee Stock Purchase Plan. | S-1/A | 02/05/2013 | 10.16 | 333-184779 | |
| 21.1 | Subsidiaries of the Company. | 10-K | 12/9/2016 | 21.1 | 001-35839 | |
| 23.1 | Consent of PricewaterhouseCoopers LLP, Independent Registered Public Accounting Firm. | 10-K | 12/9/2016 | 23.1 | 001-35839 | |
| 31.1 | Certification of the Chief Executive Officer pursuant to Rule 13a-14(a) or 15d-14(a) of the Securities Exchange Act of 1934. | | | | | X |
| 31.2 | Certification of Chief Financial Officer pursuant to Rule 13a-14(a) or 15d-14(a) of the Securities Exchange Act of 1934. | | | | | X |
| 32.1 | Certification of the Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. | 10-K | 12/9/2016 | 32.1 | 001-35839 | |
| 101 | The following materials from the Annual Report of Enanta Pharmaceuticals, Inc. on Form 10-K for the year ended September 30, 2016, formatted in XBRL (eXtensible Business Reporting Language): (i) Consolidated Balance Sheets as of September 30, 2016 and September 30, 2015 of Enanta Pharmaceuticals, Inc., (ii) Consolidated Statements of Operations for the years ended September 30, 2016, 2015 and 2014 of Enanta Pharmaceuticals, Inc., (iii) Consolidated Statements of Comprehensive Income for the years ended September 30, 2016, 2015 and 2014 of Enanta Pharmaceuticals, Inc., (iv) Consolidated Statements of Stockholders Equity (Deficit) for the years ended September 30, 2016, 2015 and 2014 of Enanta Pharmaceuticals, Inc., (v) Consolidated Statements of Cash Flows for the years ended September 30, 2016, 2015 and 2014 of Enanta Pharmaceuticals, Inc., and (vi) Notes to Consolidated Financial Statements of Enanta Pharmaceuticals, Inc. | 10-K | 12/9/2016 | 101 | 001-35839 | |

- # Management contract or compensatory plan, contract or agreement.
Confidential treatment granted as to portions of this Exhibit. The confidential portions of this Exhibit have been omitted and are marked by asterisks.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Company has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, this 6th day of January, 2017.

ENANTA PHARMACEUTICALS, INC.

By: */s/ Paul J. Mellett*
Paul J. Mellett
Chief Financial Officer