

PERRIGO Co plc
Form 8-K
March 17, 2017

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): March 17, 2017

Perrigo Company plc
(Exact name of registrant as specified in its charter)

Commission file number 001-36353

Ireland	Not Applicable
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

Treasury Building, Lower Grand Canal Street, Dublin 2, Ireland	-
(Address of principal executive offices)	(Zip Code)

+353 1 7094000
(Registrant's telephone number, including area code)

Not Applicable
(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))

Item 3.01 Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Listing.

Transfer of

On March 17, 2017, Perrigo Company plc (the “Company”) received a notice from the New York Stock Exchange (the “NYSE”) indicating that the Company is not in compliance with the NYSE’s continued listing requirements under the timely filing criteria outlined in Section 802.01E of the NYSE Listed Company Manual as a result of the Company’s failure to timely file its Annual Report on Form 10-K for the fiscal year ended December 31, 2016 (the “Form 10-K”).

As previously disclosed, the Company and its independent auditor, Ernst & Young LLP (“E&Y”), were unable to fully complete their respective reviews of the historical revenue recognition practices associated with the Tysabri® royalty stream by the Form 10-K filing due date under the extension period provided by Rule 12b-25 of the Securities Exchange Act of 1934. E&Y, together with the Company’s full cooperation, is focused on completing its audit procedures, including the previously-discussed scope of work related to the review of the deferred tax assets and other related effects at Omega Pharma Invest N.V., to enable the Company to file the Form 10-K as soon as practical.

The NYSE has informed the Company that, under the NYSE rules, the Company will have six months from March 16, 2017 to file its Form 10-K with the Securities and Exchange Commission (the “SEC”). The Company can regain compliance with the NYSE listing standards at any time prior to such date by filing the Form 10-K with the SEC. If the Company fails to file its Form 10-K prior to such date, then the NYSE may grant, at its discretion, a further extension of up to six additional months, depending on the specific circumstances. The letter from the NYSE also notes that the NYSE may commence delisting proceedings at any time if the circumstances warrant.

Forward-Looking Statements

Certain statements in this filing are “forward-looking statements.” These statements relate to future events or the Company’s future financial performance and involve known and unknown risks, uncertainties and other factors that may cause the actual results, levels of activity, performance or achievements of the Company or its industry to be materially different from those expressed or implied by any forward-looking statements. In some cases, forward-looking statements can be identified by terminology such as “may,” “will,” “could,” “would,” “should,” “expect,” “plan,” “anticipate,” “intend,” “believe,” “estimate,” “predict,” “potential” or the negative of those terms or other comparable terminology. The Company has based these forward-looking statements on its current expectations, assumptions, estimates and projections. While the Company believes these expectations, assumptions, estimates and projections are reasonable, such forward-looking statements are only predictions and involve known and unknown risks and uncertainties, many of which are beyond the Company’s control, including the time, effort and expense to complete its 2016 Form 10-K, future impairment charges, the ability to achieve its guidance, the completion of announced acquisitions or dispositions, the ability to execute and achieve the desired benefits of announced initiatives, and the timing, amount and cost of share repurchases. In addition, the Company may identify and be unable to remediate one or more material weaknesses in its internal control over financial reporting, need to restate its financial statements, conclude that investors should no longer rely upon previously issued financial statements or be unable to regain compliance with the NYSE continued listing rules. Furthermore, if the Company and/or its subsidiaries are required to restate their financial statements it and/or its subsidiaries may incur additional tax liabilities in respect of 2016 and prior years or may be found to have breached certain provisions of Irish company legislation in respect of prior financial statements and if so, may incur additional expenses and penalties. These and other important factors, including those discussed under “Risk Factors” in the Company’s Form 10-KT for the six-month period ended December 31, 2015, as well as the Company’s subsequent filings with the United States Securities and Exchange Commission, may cause actual results, performance or achievements to differ materially from those expressed or implied by these forward-looking statements. The forward-looking statements in this filing are made only as of the date hereof, and unless otherwise required by applicable securities laws, the Company disclaims any intention or obligation to update or

revise any forward-looking statements, whether as a result of new information, future events or otherwise.

SIGNATURE

Pursuant to the requirement 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.

(Registrant)

PERRIGO COMPANY PLC

By: /s/ Todd W. Kingma

Dated: March 17, 2017

Todd W. Kingma

Executive Vice President, General Counsel and Secretary

type="overflow:hidden;height:9px;font-size:10pt;">

Income before income taxes and discontinued operations

21,440

28,182

(6,742

)

(23.9

)%

Income tax provision

(765

)

(493

)

(272

)

55.2

%

Income from continuing operations

20,675

27,689

(7,014
)

(25.3
)%

Discontinued operations

Income attributable to discontinued operations

5,373

7,062

(1,689
)

(23.9
)%

Gain from disposition of real estate

52,831

83

52,748

63,551.8

%

Total discontinued operations

58,204

7,145

51,059

714.6

%

Net income

78,879

34,834

44,045

126.4

%

Net income attributable to noncontrolling interests

Redeemable noncontrolling interests

(986
)

(541
)

(445
)

82.3
%

Partially owned properties

(1,078
)

(1,312
)

234

(17.8
)%

Net income attributable to noncontrolling interests

(2,064
)

(1,853
)

(211
)

11.4
%

Net income attributable to common shareholders

\$
76,815

\$
32,981

\$
43,834

132.9
%

37

Wholly-Owned Properties Operations

A reconciliation of our same store and new property operations to our consolidated statements of comprehensive income is set forth below:

	Same Store Properties ⁽¹⁾		New Properties ⁽²⁾		Total - All Properties ⁽¹⁾	
	Nine Months Ended		Nine Months Ended		Nine Months Ended	
	September 30,		September 30,		September 30,	
	2013	2012	2013	2012	2013	2012
Number of properties	90	90	61	31	151	121
Number of beds	54,232	54,232	35,376	17,498	89,608	71,730
Revenues ⁽³⁾	\$275,173	\$269,987	\$176,518	\$17,927	\$451,691	\$287,914
Operating expenses	134,925	130,937	87,843	10,835	222,768	141,772

(1) Excludes two properties classified as Held for Sale as of September 30, 2013 that are included in discontinued operations on the accompanying consolidated statements of comprehensive income.

(2) Does not include properties under construction as of September 30, 2013. Number of properties and number of beds also excludes properties undergoing redevelopment as of September 30, 2013, although the results of operations of those properties are included in revenues and operating expenses prior to commencement of redevelopment activities.

(3) Includes revenues which are reflected as resident services revenue on the accompanying consolidated statements of comprehensive income.

Same Store Properties. The increase in revenue from our same store properties was primarily due to an increase in average rental rates for the 2012/2013 and 2013/2014 academic years, offset by a slight decrease in average occupancy from 95.7% during the nine months ended September 30, 2012 to 95.6% during the nine months ended September 30, 2013. The increase in operating expenses for our same store properties was primarily due to an increase in marketing costs incurred to stimulate leasing velocity for the 2013/2014 academic year.

New Property Operations. Our new properties for the nine months ended September 30, 2013 consist of the following: (i) University Heights- Knoxville, acquired from Fund II in January 2012, (ii) Avalon Heights, acquired in May 2012, (iii) University Commons, acquired in June 2012, (iv) The Block, acquired in August 2012, (v) The Retreat, acquired in September 2012, (vi) 11 owned development projects that opened for occupancy in August and September 2012 (vii) a 15-property student housing portfolio acquired in September 2012, (viii) a 19-property student housing portfolio acquired in November 2012, (ix) University Edge, a property previously subject to a pre-sale agreement that we acquired in December 2012, (x) 7th Street Station, acquired in July 2013, (xi) The Lodges of East Lansing Phase II, an additional phase at an existing property previously subject to a pre-sale agreement that we acquired in July 2013, (xii) The Plaza Apartments, acquired in August 2013, (xiii) Townhomes at Newtown Crossing, a property previously subject to a pre-sale agreement that we acquired in September 2013, and (xiv) seven owned development projects that opened for occupancy in August and September 2013.

On-Campus Participating Properties ("OCPP") Operations

We had four participating properties containing 4,519 beds which were operating during the nine months ended September 30, 2013 and 2012 (one on-campus participating property was under construction as of September 30, 2013). Revenues from our participating properties increased approximately \$0.1 million to \$17.9 million during the

nine months ended September 30, 2013 from \$17.8 million for the nine months ended September 30, 2012. This change was primarily a result of an increase in average rental rates for the 2012/2013 and 2013/2014 academic years, offset by a decrease in average occupancy from 70.7% for the nine months ended September 30, 2012 to 69.1% for the nine months ended September 30, 2013.

At these properties, operating expenses increased by approximately \$0.2 million, from \$8.3 million for the nine months ended September 30, 2012 to \$8.5 million for the nine months ended September 30, 2013. This increase was primarily a result of general inflation.

Third-Party Development Services Revenue

Third-party development services revenue decreased by approximately \$5.7 million, from \$7.4 million during the nine months ended September 30, 2012 to \$1.7 million for the nine months ended September 30, 2013. This decrease was primarily due to the closing of bond financing and commencement of construction for the Southern Oregon University and College of Staten Island projects and the commencement of construction on the Lakeside Graduate Community at Princeton University during the nine months ended September 30, 2012, resulting in \$4.3 million of revenue recognized during that period. During the nine months ended September 30, 2013, we had three projects in progress with an average contractual fee of approximately \$2.7 million, as compared to the nine months ended September 30, 2012 in which we had seven projects in progress with an average contractual fee of approximately \$2.4 million.

Third-Party Management Services Revenue

Third-party management services revenue increased by approximately \$0.3 million, from \$5.1 million during the nine months ended September 30, 2012 to \$5.4 million for the nine months ended September 30, 2013. This increase was primarily a result of the recognition of incentive management fees from two of our third-party management contracts during the nine months ended September 30, 2013.

Third-Party Development and Management Services Expenses

Third party development and management services expenses decreased by approximately \$0.2 million, from \$8.0 million during the nine months ended September 30, 2012 to \$7.8 million for the nine months ended September 30, 2013. This decrease was primarily a result of the recent growth in our wholly-owned property portfolio, as well as a lower number of newly awarded contracts in this business segment during 2013 as compared to the prior year, offset by approximately \$0.6 million of transfer taxes paid by the Company in connection with our recent conversion of a wholly-owned property from off-campus into an on-campus ACE structure via a ground lease with Drexel University.

General and Administrative

General and administrative expenses decreased by approximately \$3.4 million, from \$15.8 million during the nine months ended September 30, 2012 to \$12.4 million for the nine months ended September 30, 2013. This decrease was primarily a result of \$3.8 million of acquisition-related costs such as broker fees, due diligence costs and legal and accounting fees incurred in connection with our purchase of a 15-property student housing portfolio in September 2012, offset by additional salary and benefits expense, public company costs and other general inflationary factors during the nine months ended September 30, 2013.

Depreciation and Amortization

Depreciation and amortization increased by approximately \$65.0 million, from \$73.4 million during the nine months ended September 30, 2012 to \$138.4 million for the nine months ended September 30, 2013. This increase was primarily a result of the following items: (i) additional depreciation and amortization expense of approximately \$50.3 million recorded during the nine months ended September 30, 2013 related to properties acquired during 2012 and 2013, (ii) the completion of construction and opening of 11 owned development properties in August and September 2012, which contributed an additional \$13.7 million of depreciation and amortization expense during the nine months ended September 30, 2013, and (iii) the completion of construction and opening of seven owned development properties in August and September 2013, which contributed an additional \$1.4 million of depreciation and amortization expense during the nine months ended September 30, 2013. These increases were offset by a decrease in the amortization of in-place leases of approximately \$1.7 million related to the purchase of three properties in 2011. The value assigned to in-place leases upon acquisition of these properties was fully amortized by the end of 2012.

Ground/Facility Leases

Ground/facility leases expense increased by approximately \$0.8 million, from \$2.9 million during the nine months ended September 30, 2012 to \$3.7 million for the nine months ended September 30, 2013. This increase was primarily due to the completion of construction and commencement of operations of six ACE development projects during 2012.

Interest Income

Interest income increased by approximately \$0.8 million, from \$1.4 million during the nine months ended September 30, 2012 to \$2.2 million during the nine months ended September 30, 2013. This increase was primarily a result of our purchase of \$52.8

million in loans receivable on April 22, 2013. These loans carry an interest rate of 5.12% with semiannual compounding and are secured by a lien on, and the cash flows from, two student housing properties in close proximity to the University of Central Florida.

Interest Expense

Interest expense increased by approximately \$18.4 million, from \$38.7 million during the nine months ended September 30, 2012 to \$57.1 million for the nine months ended September 30, 2013. We incurred additional interest expense of approximately \$15.7 million during the nine months ended September 30, 2013 related to loans assumed in connection with 2012 property acquisitions. We also incurred additional interest expense of approximately \$7.5 million during the nine months ended September 30, 2013 related to our \$400 million offering of senior unsecured notes which closed on April 2, 2013. Lastly, we incurred additional interest expense of approximately \$0.5 million during the nine months ended September 30, 2013 from construction loans used to partially finance the construction of two owned development projects which opened for occupancy in August 2012. These increases were offset by a decrease of approximately \$3.1 million during the nine months ended September 30, 2013 as a result of mortgage and construction loans paid off during 2012 and 2013. In addition, interest expense decreased as a result of an increase in capitalized interest of approximately \$1.3 million due to the timing and volume of construction activities on our owned development projects during the respective periods. Lastly, interest expense decreased by approximately \$0.6 million during the nine months ended September 30, 2013 related to decreased borrowings under our revolving credit facility. On April 2, 2013, we used \$321.0 million in proceeds from our unsecured notes offering to pay down in full the outstanding balance on our revolving credit facility.

Amortization of Deferred Financing Costs

Amortization of deferred financing costs increased approximately \$1.1 million, from \$3.0 million during the nine months ended September 30, 2012 to \$4.1 million for the nine months ended September 30, 2013. This increase was primarily due to an additional \$0.9 million of finance cost amortization during the nine months ended September 30, 2013, as a result of finance costs paid upon the assumption of mortgage debt in connection with 2012 property acquisitions. We also incurred an additional \$0.2 million of finance cost amortization during the nine months ended September 30, 2013 as a result of offering costs paid in connection with our \$400 million unsecured notes offering, which closed on April 2, 2013.

Income from Unconsolidated Joint Ventures

We reported income from unconsolidated joint ventures of approximately \$0.4 million for the nine months ended September 30, 2012 in connection with our share of a gain on debt restructuring recorded by Fund II during 2012. In connection with our acquisition of University Heights - Knoxville from Fund II in January 2012, Fund II negotiated a Settlement Agreement with the lender of the property's mortgage loan whereby the lender agreed to accept a discounted amount that was less than the original principal amount of the loan as payment in full. Accordingly, Fund II recorded a gain on debt restructuring of \$4.2 million, of which our 10% share was \$0.4 million.

Other Nonoperating (Expense) Income

Other nonoperating (expense) income changed by approximately \$2.7 million, from income of \$14,000 during the nine months ended September 30, 2012 to an expense of \$2.7 million during the nine months ended September 30, 2013. During the nine months ended September 30, 2013, we paid \$52.8 million to acquire loans receivable from National Public Finance Guarantee Corporation ("National") which facilitated the settlement of a lawsuit brought by National against us. In connection with our purchase of the loans receivable, we recorded a purchase discount of approximately \$3.6 million to reflect the difference between the face value of the loans receivable and the present value of the cash flows anticipated to be received under the loans receivable, based on management's estimate of

market interest rates in place as of the settlement date. Concurrent with recording this \$3.6 million purchase discount, we recognized litigation settlement costs of \$2.8 million in excess of amounts provided by insurance.

The litigation settlement costs discussed above were offset by a gain of approximately \$0.1 million recognized upon our purchase of Townhomes at Newtown Crossing in September 2013, a property previously subject to a pre-sale/mezzanine investment agreement. We included the property in our consolidated financial statements during the construction period, as a result of applying accounting guidance related to variable interest entities. The property completed construction in August 2013 and the gain recorded upon our purchase of the property primarily relates to interest income earned on our mezzanine investment during the construction period.

Discontinued Operations

Discontinued operations on the accompanying consolidated statements of comprehensive income includes the following wholly-owned properties: (i) University Mills and Campus Ridge, wholly-owned properties that were classified as Held for Sale as of September 30, 2013, (ii) State College Park, University Pines, The Village at Blacksburg and Northgate Lakes, wholly-owned properties sold in July 2013 for a combined sales price of \$157.4 million, (iii) Brookstone Village and Campus Walk, wholly-owned properties sold in December 2012 for a combined sales price of \$26.6 million, and (iv) Pirates Cove, sold in April 2012 for a sales price of \$27.5 million. Refer to Note 4 in the accompanying Notes to Consolidated Financial Statements contained in Item 1 herein for a table summarizing the results of operations of the properties classified within discontinued operations.

Liquidity and Capital Resources

Cash Balances and Cash Flows

As of September 30, 2013, excluding our on-campus participating properties, we had \$53.3 million in cash and cash equivalents and restricted cash as compared to \$46.9 million in cash and cash equivalents and restricted cash as of December 31, 2012. Restricted cash primarily consists of escrow accounts held by lenders and resident security deposits, as required by law in certain states, and funds held in escrow in connection with potential acquisition and development opportunities. The following discussion relates to changes in cash due to operating, investing and financing activities, which are presented in our consolidated statements of cash flows included in Item 1 herein.

Operating Activities: For the nine months ended September 30, 2013, net cash provided by operating activities was approximately \$176.8 million, as compared to approximately \$133.4 million for the nine months ended September 30, 2012, an increase of \$43.4 million. This increase in cash provided by operating activities was primarily due to operating cash flows provided from the timing of the acquisition of 43 properties and an additional phase at an existing property in 2012 and 2013 and the completion of construction and opening of 11 owned development projects in August and September 2012 and seven owned development projects in August and September 2013.

Investing Activities: Investing activities utilized approximately \$293.0 million and \$938.0 million for the nine months ended September 30, 2013 and 2012, respectively. The \$645.0 million decrease in cash utilized in investing activities was primarily a result of the following: (i) a \$557.3 million decrease in cash paid to acquire properties and undeveloped land as we acquired three wholly-owned properties and an additional phase at an existing wholly-owned property during the nine months ended September 30, 2013 compared to 20 properties during the nine months ended September 30, 2012; (ii) a \$127.1 million increase in proceeds received from the disposition of real estate, as four wholly-owned properties were sold during the nine months ended September 30, 2013 as compared to one wholly-owned property during the nine months ended September 30, 2012; (iii) a \$16.7 million decrease in cash used to fund deposits held in escrow in connection with potential acquisition and development opportunities; and (iv) a \$46.0 million decrease in cash used to fund the construction of our wholly-owned development properties, as 17 wholly-owned properties were under construction during the nine months ended September 30, 2012, of which 11 completed construction in August and September 2012, as compared to 13 wholly-owned properties that were under construction during the nine months ended September 30, 2013, of which seven completed construction in August and September 2013. These decreases were offset by (i) the purchase of \$49.2 million in loans receivable secured by a lien on, and the cash flows from, two student housing properties in close proximity to the University of Central Florida; (ii) a \$31.8 million increase in cash used to fund capital expenditures at our wholly-owned properties, as we began or continued renovations at several properties acquired in 2012; (iii) a \$6.8 million increase in mezzanine financing provided to third-party developers during the comparable nine month periods; (iv) the repayment of a \$4.0 million mezzanine loan by a developer during the nine months ended September 30, 2012; and (v) \$7.0 million in cash used during the nine months ended September 30, 2013 to fund the construction of an on-campus participating property located in Morgantown, West Virginia, scheduled to open for occupancy in August 2014.

Financing Activities: Cash provided by financing activities totaled approximately \$120.0 million and \$800.2 million for the nine months ended September 30, 2013 and 2012, respectively. The \$680.2 million decrease in cash provided by financing activities was primarily a result of the following: (i) an \$805.1 million decrease in net proceeds raised through the issuance of common stock; (ii) a \$150 million increase to our unsecured term loan from \$200 million to \$350 million in January 2012; (iii) a \$68.7 million decrease in proceeds from construction loans related to fewer projects being under construction during the nine months ended September 30, 2013 as compared to the nine months ended September 30, 2012; (iv) a \$29.4 million increase in distributions to stockholders during the nine months ended September 30, 2013, as a result of the issuance of common stock in connection with our July 2012 and October 2012 equity offerings and the issuance of stock in 2012 in connection with our ATM Equity Programs; and (v) a \$24.3 million decrease in proceeds (net of pay downs) received from our revolving credit facilities. These decreases were primarily offset by an offering of senior unsecured notes with net proceeds of \$398.6 million which closed on April 2, 2013.

Liquidity Needs, Sources and Uses of Capital

As of September 30, 2013, our short-term liquidity needs included, but were not limited to, the following: (i) anticipated distribution payments to our common and restricted stockholders totaling approximately \$151.8 million based on an assumed annual cash distribution of \$1.44 per share based on the number of our shares outstanding as of September 30, 2013, (ii) anticipated distribution payments to our Operating Partnership unitholders totaling approximately \$1.9 million based on an assumed annual distribution of \$1.44 per common unit and a cumulative preferential per annum cash distribution rate of 5.99% on our Series A preferred units based on the number of units outstanding as of September 30, 2013, (iii) pay-off of approximately \$159.5 million of fixed-rate mortgage debt and \$44.6 million of variable-rate construction debt scheduled to mature during the next 12 months, (iv) pay down of outstanding borrowings under our \$125 million secured agency facility scheduled to mature in September 2014, (v) estimated development costs over the next 12 months totaling approximately \$252.1 million for our wholly-owned properties currently under construction, (vi) funds for other development projects scheduled to commence construction during the next 12 months, and (vii) potential future property acquisitions.

We expect to meet our short-term liquidity requirements by (i) borrowing under our existing credit facilities discussed below, (ii) issuing securities, including common stock, under our \$500 million at-the-market share offering program (“ATM Equity Program”) discussed below, (iii) potentially disposing of properties depending on market conditions (see Note 16 in the accompanying Notes to Consolidated Financial Statements contained in Item 1), and (iv) utilizing net cash provided by operations.

We may seek additional funds to undertake initiatives not contemplated by our business plan or obtain additional cushion against possible shortfalls. We also may pursue additional financing as opportunities arise. Future financings may include a range of different sizes or types of financing, including the incurrence of additional secured debt and the sale of additional debt or equity securities. These funds may not be available on favorable terms or at all. Our ability to obtain additional financing depends on several factors, including future market conditions, our success or lack of success in penetrating our markets, our future creditworthiness, and restrictions contained in agreements with our investors or lenders, including the restrictions contained in the agreements governing our revolving credit facilities, term loan and unsecured notes. These financings could increase our level of indebtedness or result in dilution to our equity holders.

ATM Equity Program

As discussed in more detail in Note 9 in the accompanying Notes to Consolidated Financial Statements contained in Item 1, during the nine months ended September 30, 2013, we established a new ATM Equity Program under which we may sell shares of our common stock into the existing trading market at current market prices with an aggregate offering price of up to \$500 million. We did not sell any shares under the ATM program during the nine months ended September 30, 2013.

Senior Unsecured Notes

As discussed in more detail in Note 8 in the accompanying Notes to Consolidated Financial Statements contained in Item 1, we issued \$400.0 million of 10-year senior unsecured notes at 99.659 percent of par value with a coupon of 3.75 percent and a yield of 3.791 percent. Net proceeds from the sale of the unsecured notes totaled approximately \$394.4 million after deducting the underwriting discount and estimated offering expenses and we used \$321.0 million of the proceeds to pay down the outstanding balance on our revolving credit facility in full. The terms of the unsecured notes include certain financial covenants that require the Operating Partnership to limit the amount of total debt and secured debt as a percentage of total asset value, as defined. In addition, the Operating Partnership must maintain a minimum ratio of unencumbered asset value to unsecured debt, as well as a minimum interest coverage level. As of September 30, 2013, we were in compliance with all such covenants.

Unsecured Credit Facility

As discussed in more detail in Note 8 and Note 12 in the accompanying Notes to Consolidated Financial Statements contained in Item 1, we have an aggregate Credit Facility of \$800 million, which is composed of a \$350 million unsecured term loan and a \$450 million unsecured revolving credit facility. We have entered into multiple interest rate swaps with notional amounts totaling \$350 million that effectively fix the interest rate to 2.54% (0.89% + 1.65% spread) on the outstanding balance of our unsecured term loan.

As of September 30, 2013, the balance outstanding on our revolving credit facility totaled \$175.3 million, bearing interest at a weighted average annual rate of 1.93%, and availability under the revolving credit facility totaled \$274.7 million. The terms of the combined Credit Facility include certain restrictions and covenants, as discussed more fully in Note 8 in the accompanying Notes to Consolidated Financial Statements contained in Item 1, including covenants that restrict the amount of distributions that we can pay. As of September 30, 2013, we were in compliance with all such covenants.

Secured Agency Facility

As discussed in more detail in Note 8 in the accompanying Notes to Consolidated Financial Statements contained in Item 1, we also have a \$125 million secured revolving credit facility with a Freddie Mac lender. As of September 30, 2013, the balance outstanding on the facility totaled \$95.4 million, bearing interest at a weighted average annual rate of 2.22%. The secured agency facility includes some, but not all, of the same financial covenants as the Credit Facility, as described above. As of September 30, 2013, we were in compliance with all such covenants.

Distributions

We are required to distribute 90% of our REIT taxable income (excluding capital gains) on an annual basis in order to qualify as a REIT for federal income tax purposes. Distributions to common stockholders are at the discretion of the Board of Directors. We may use borrowings under our unsecured revolving credit facility to fund distributions. The Board of Directors considers a number of factors when determining distribution levels, including market factors and our Company's performance in addition to REIT requirements.

On October 30, 2013, we declared a third quarter 2013 distribution per share of \$0.36, which will be paid on November 27, 2013 to all common stockholders of record as of November 13, 2013. At the same time, the Operating Partnership will pay an equivalent amount per unit to holders of common units, as well as the quarterly cumulative preferential distribution to holders of Series A preferred units.

Pre-Development Expenditures

Our third-party and owned development activities have historically required us to fund pre-development expenditures such as architectural fees, permits and deposits. The closing and/or commencement of construction of these development projects is subject to a number of risks such as our inability to obtain financing on favorable terms and delays or refusals in obtaining necessary zoning, land use, building, and other required governmental permits and authorizations. As such, we cannot always predict accurately the liquidity needs of these activities. We frequently incur these pre-development expenditures before a financing commitment and/or required permits and authorizations have been obtained. Accordingly, we bear the risk of the loss of these pre-development expenditures if financing cannot ultimately be arranged on acceptable terms or we are unable to successfully obtain the required permits and authorizations. Historically, our third-party and owned development projects have been successfully structured and financed; however, these developments have at times been delayed beyond the period initially scheduled, causing revenue to be recognized in later periods. As of September 30, 2013, we have deferred approximately \$2.4 million in pre-development costs related to third-party and owned development projects that have not yet commenced construction.

Indebtedness

As of September 30, 2013, we had approximately \$2,358.3 million of outstanding consolidated indebtedness (excluding net unamortized mortgage debt premiums and debt discounts of approximately \$78.4 million and \$2.4 million, respectively), comprised of \$398.7 million of 10-year unsecured notes (net of original issue discount), a \$350.0 million balance on our unsecured term loan, a \$175.3 million balance on our unsecured revolving credit facility, a \$95.4 million balance on our secured agency facility, \$1,261.1 million in mortgage and construction loans secured by our wholly-owned properties, a \$31.5 million balance in mortgage loans secured by two phases of an on-campus participating property, \$42.4 million in bond issuances secured by three of our on-campus participating properties and a \$3.9 million balance on a construction loan used to finance the development of an on-campus participating property which is scheduled to be completed in August 2014. The weighted average interest rate on our consolidated indebtedness as of September 30, 2013 was 4.3% per annum. As of September 30, 2013, approximately 13.4% of our total consolidated indebtedness was variable rate debt, comprised of our secured agency facility,

unsecured revolving credit facility and three construction loans discussed below.

Wholly-Owned Properties

Mortgage debt: The weighted average interest rate of the \$1,216.5 million of wholly-owned mortgage debt was 5.46% per annum as of September 30, 2013. Each of the mortgage loans is a non-recourse obligation subject to customary exceptions. The loans generally may not be prepaid prior to maturity; in certain cases prepayment is allowed, subject to prepayment penalties.

Construction loan: The development and construction of two on-campus ACE properties (The Suites and Hilltop Townhomes), which both completed construction in August 2012, are partially financed on a combined basis with a \$45.4 million construction loan. For each borrowing we have the option of choosing the Prime rate or one-, two-, three-, or six-month LIBOR plus 1.45%. The loan requires payments of interest only during the term of the loan and any accrued interest and outstanding borrowings become

due on the maturity date of May 16, 2014. The term of the loan can be extended through May 2016 through the exercise of two 12-month extension options. As of September 30, 2013, the balance outstanding on the construction loan totaled \$44.6 million, bearing interest at a weighted average rate per annum of 1.63%.

On-Campus Participating Properties

Bonds: As discussed in Note 6 in the Notes to Consolidated Financial Statements contained in Item 1, three of our on-campus participating properties are 100% financed with project-based taxable bonds. As of September 30, 2013, the bonds carry a balance of \$42.4 million and bear interest at a weighted average rate per annum of 7.55%. The loans encumbering the leasehold interests are non-recourse, subject to customary exceptions.

Mortgage loans: The Cullen Oaks Phase I and Phase II on-campus participating properties are currently encumbered by mortgage loans with balances as of September 30, 2013 of approximately \$15.7 million and \$15.8 million, respectively. The loans mature in February 2014 and bear interest at a rate of LIBOR plus 1.35%. In connection with these loans, we entered into an interest rate swap agreement effective February 15, 2007 through February 15, 2014, that is designated to hedge our exposure to fluctuations on interest payments attributed to changes in interest rates associated with payments on the loans. Under the terms of the interest rate swap agreement, we pay a fixed rate of 6.69% per annum and receive a floating rate of LIBOR plus 1.35%. We have guaranteed payment of this property's indebtedness.

Construction loan: The development and construction of an on-campus participating property located in Morgantown, West Virginia, which is scheduled to complete construction and open for occupancy in August 2014, is financed with a \$44.2 million construction loan. The loan matures in July 2045, bears interest at a rate of 3.85% per annum for the first five years and one-month LIBOR plus 2.5% for the remaining term of the loan. The loan requires payments of interest only during the first two years and principal and interest payments beginning in August 2015.

Funds From Operations ("FFO")

The National Association of Real Estate Investment Trusts ("NAREIT") currently defines FFO as net income or loss attributable to common shares computed in accordance with generally accepted accounting principles ("GAAP"), excluding gains or losses from depreciable operating property sales, impairment charges and real estate depreciation and amortization, and after adjustments for unconsolidated partnerships and joint ventures. We present FFO because we consider it an important supplemental measure of our operating performance and believe it is frequently used by securities analysts, investors and other interested parties in the evaluation of REITs, many of which present FFO when reporting their results. FFO excludes GAAP historical cost depreciation and amortization of real estate and related assets, which assumes that the value of real estate diminishes ratably over time. Historically, however, real estate values have risen or fallen with market conditions. We therefore believe that FFO provides a performance measure that, when compared year over year, reflects the impact to operations from trends in occupancy rates, rental rates, operating costs, and interest costs, among other items, providing perspective not immediately apparent from net income. We compute FFO in accordance with standards established by the Board of Governors of NAREIT in its March 1995 White Paper (as amended in November 1999 and April 2002), which may differ from the methodology for calculating FFO utilized by other equity REITs and, accordingly, may not be comparable to such other REITs.

We also believe it is meaningful to present a measure we refer to as FFO-Modified, or FFOM, which reflects certain adjustments related to the economic performance of our on-campus participating properties and other nonrecurring items. Under our participating ground leases, we and the participating university systems each receive 50% of the properties' net cash available for distribution after payment of operating expenses, debt service (which includes significant amounts towards repayment of principal) and capital expenditures. A substantial portion of our revenues attributable to these properties is reflective of cash that is required to be used for capital expenditures and for the amortization of applicable property indebtedness. These amounts do not increase our economic interest in these

properties or otherwise benefit us since our interest in the properties terminates upon the repayment of the applicable property indebtedness. Therefore, unlike the ownership of our wholly-owned properties, the unique features of our ownership interest in our on-campus participating properties cause the value of these properties to diminish over time. For example, since the ground/facility leases under which we operate the participating properties require the reinvestment from operations of specified amounts for capital expenditures and for the repayment of debt while our interest in these properties terminates upon the repayment of the debt, such capital expenditures do not increase the value of the property to us and mortgage debt amortization only increases the equity of the ground lessor.

Accordingly, we believe it is meaningful to modify FFO to exclude the operations of our on-campus participating properties and to consider their impact on our performance by including only that portion of our revenues from those properties that are reflective of our share of net cash flow and the management fees that we receive, both of which increase and decrease with the operating performance of the properties. This narrower measure of performance measures our profitability for these properties in a manner that is similar to the measure of our profitability from our services business where we similarly incur no initial or ongoing capital investment in a property and derive only consequential

benefits from capital expenditures and debt amortization. We believe, however, that this narrower measure of performance is inappropriate in traditional real estate ownership structures where debt amortization and capital expenditures enhance the property owner's long-term profitability from its investment. When calculating FFOM, we also exclude losses from early extinguishment of debt incurred in connection with property dispositions and other non-cash gains or losses, as appropriate.

Our FFOM may have limitations as an analytical tool because it reflects the contractual calculation of net cash flow from our on-campus participating properties, which is unique to us and is different from that of our owned off-campus properties. Companies that are considered to be in our industry may not have similar ownership structures; and therefore those companies may not calculate FFOM in the same manner that we do, or at all, limiting its usefulness as a comparative measure. We compensate for these limitations by relying primarily on our GAAP and FFO results and using FFOM only supplementally. Further, FFO and FFOM do not represent amounts available for management's discretionary use because of needed capital replacement or expansion, debt service obligations or other commitments and uncertainties. FFO and FFOM should not be considered as alternatives to net income or loss computed in accordance with GAAP as an indicator of our financial performance, or to cash flow from operating activities computed in accordance with GAAP as an indicator of our liquidity, nor are these measures indicative of funds available to fund our cash needs, including our ability to pay dividends or make distributions.

The following table presents a reconciliation of our net income attributable to common shareholders to FFO and FFOM:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2013	2012	2013	2012
Net income attributable to American Campus Communities, Inc. and Subsidiaries	\$47,176	\$627	\$76,815	\$32,981
Noncontrolling interests ⁽¹⁾	656	129	1,273	798
Gain from disposition of real estate	(52,831)) —	(52,831)) (83)
Income from unconsolidated joint ventures	—	—	—	(444)
FFO from unconsolidated joint ventures ⁽²⁾	—	—	—	429
Real estate related depreciation and amortization	44,905	28,122	138,704	76,201
Funds from operations ("FFO")	39,906	28,878	163,961	109,882
Elimination of operations of on-campus participating properties:				
Net loss (income) from on-campus participating properties	1,002	919	(493)) (535)
Amortization of investment in on-campus participating properties	(1,197)) (1,167)) (3,553)) (3,481)
	39,711	28,630	159,915	105,866
Modifications to reflect operational performance of on-campus participating properties:				
Our share of net cash flow ⁽³⁾	627	529	1,686	1,602
Management fees	242	236	832	814
On-campus participating properties development fees ⁽⁴⁾	950	—	950	—
Impact of on-campus participating properties	1,819	765	3,468	2,416
Non-cash litigation settlement expense ⁽⁵⁾	—	—	2,800	—
Elimination of gain on debt restructuring – unconsolidated joint venture ⁽⁶⁾	—	—	—	(424)
	—	—	—	122

Loss on remeasurement of equity method investment ⁽⁷⁾

Funds from operations – modified (“FFOM”)	\$41,530	\$29,395	\$166,183	\$107,980
FFO per share – diluted	\$0.37	\$0.32	\$1.54	\$1.36
FFOM per share – diluted	\$0.39	\$0.32	\$1.56	\$1.33
Weighted average common shares outstanding – diluted	106,639,825	90,764,959	106,629,998	81,011,069
Acquisition-related costs	\$345	\$4,744	\$345	\$6,121
FFOM (excluding acquisition-related costs)	\$41,875	\$34,139	\$166,528	\$114,101
FFOM per share (excluding acquisition-related costs)	\$0.39	\$0.38	\$1.56	\$1.41

Excludes \$0 and \$0.8 million for the three and nine months ended September 30, 2013, respectively, and \$0.3 million and \$1.1 million for the three and nine months ended September 30, 2012, respectively, of income

- ⁽¹⁾ attributable to the noncontrolling partner in The Varsity, a property purchased in December 2011 from a seller that retained a 20.5% noncontrolling interest in the property. Effective July 1, 2013, the company acquired the minority partner’s interest and now owns 100% of the property.

Represents our 10% share of FFO from a joint venture with Fidelity (“Fund II”) in which we were a noncontrolling partner. In January 2012, we purchased the full ownership interest in the one remaining property owned by Fund II (University Heights). Subsequent to the acquisition, the property is now wholly-owned and is consolidated by the company.

(3) 50% of the properties’ net cash available for distribution after payment of operating expenses, debt service (including repayment of principal) and capital expenditures. Represents amounts accrued for the interim periods.

Development and construction management fees related to the West Virginia University on-campus participating property, which is currently under construction and scheduled for completion in August 2014. Although the company is including this project in its consolidated financial statements for accounting purposes, similar to our (4) other on-campus participating properties, we view the economic benefit of such properties as limited to the development/construction management fees, property management fees and the 50% share of net cash flow that we receive. As such, for purposes of calculating FFOM, we are recognizing the fees received for this project similar to other third-party development projects.

On April 22, 2013, the company acquired a note and subrogation rights from National Public Finance Guarantee Corporation (formerly known as MBIA Insurance Corp. of Illinois) for an aggregate of \$52.8 million, which are secured by a lien on, and the cash flows from, two student housing properties in close proximity to the University of Central Florida and currently under a ground lease with the UCF Foundation. The instruments carry an interest (5) rate of 5.123 percent. The acquisition facilitated the settlement of litigation related to a third-party management agreement for the properties with a GMH entity that was acquired by the company’s 2008 merger with GMH. The acquisition resulted in a non-cash settlement charge of \$2.8 million to reflect the fair market valuation of the instruments. Management believes it is appropriate to exclude this non-cash charge from FFOM in order to more accurately present the operating results of the company on a comparative basis during the periods presented.

In connection with our purchase of University Heights from Fund II (see Note 3), Fund II negotiated a Settlement Agreement with the lender of the property’s mortgage loan whereby the lender agreed to accept a discounted (6) amount that was less than the original principal amount of the loan as payment in full. Accordingly, Fund II recorded a gain on debt restructuring to reflect the discounted payoff. Our 10% share of such gain is reflected above as an adjustment to FFOM.

(7) Represents a non-cash loss recorded to remeasure our equity method investment in Fund II to fair value as a result of our purchase of the full ownership interest in University Heights from Fund II in January 2012.

Inflation

Our student leases do not typically provide for rent escalations. However, they typically do not have terms that extend beyond 12 months. Accordingly, although on a short term basis we would be required to bear the impact of rising costs resulting from inflation, we have the opportunity to raise rental rates at least annually to offset such rising costs. However, a weak economic environment or declining student enrollment at our principal universities may limit our ability to raise rental rates.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Market risk is the risk of loss from adverse changes in market prices and interest rates. Our future earnings and cash flows are dependent upon prevailing market rates. Accordingly, we manage our market risk by matching projected cash inflows from operating, investing and financing activities with projected cash outflows for debt service, acquisitions, capital expenditures, distributions to stockholders and unitholders, and other cash requirements. The majority of our outstanding debt has fixed interest rates, which minimizes the risk of fluctuating interest rates. Our

exposure to market risk includes interest rate fluctuations in connection with our revolving credit facilities and variable rate construction loans and our ability to incur more debt without stockholder approval, thereby increasing our debt service obligations, which could adversely affect our cash flows. No material changes have occurred in relation to market risk since our Annual Report on Form 10-K for the year ended December 31, 2012.

Item 4. Controls and Procedures

American Campus Communities, Inc.

(a) Evaluation of Disclosure Controls and Procedures

As required by SEC Rule 13a-15(b), we have carried out an evaluation, under the supervision of and with the participation of management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation

of our disclosure controls and procedures as of the end of the period covered by this report. Based on the foregoing, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures for the quarter covered by this report were effective at the reasonable assurance level.

(b) Changes in Internal Control Over Financial Reporting

There has been no change in our internal control over financial reporting during our most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

American Campus Communities Operating Partnership, L.P.

(a) Evaluation of Disclosure Controls and Procedures

As required by SEC Rule 13a-15(b), we have carried out an evaluation, under the supervision of and with the participation of management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of the end of the period covered by this report. Based on the foregoing, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures for the quarter covered by this report were effective at the reasonable assurance level.

(b) Changes in Internal Control Over Financial Reporting

There has been no change in our internal control over financial reporting during our most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II OTHER INFORMATION

Item 1. Legal Proceedings

We are subject to various claims, lawsuits and legal proceedings that arise in the ordinary course of business. While it is not possible to ascertain the ultimate outcome of such matters, management believes that the aggregate amount of such liabilities, if any, in excess of amounts provided or covered by insurance, will not have a material adverse effect on our consolidated financial position or our results of operations.

Item 1A. Risk Factors

There have been no material changes to the risk factors that were discussed in Part 1, Item 1A of the Company's and the Operating Partnership's Annual Report on Form 10-K for the year ended December 31, 2012.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

During the three months ended September 30, 2013, American Campus Communities Operating Partnership, L.P. ("Operating Partnership") issued 97,143 common units of limited partnership interest to contributors of property to the Operating Partnership. The units are exchangeable for cash or, at the option of the Operating Partnership, for shares of American Campus Communities, Inc.'s common stock on a one-for-one basis. The units were issued in reliance on the exemption from registration provided by Section 4(2) of the Securities Act of 1933.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

None.

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Item 6. Exhibits

Exhibit Number	Description of Document
4.1	Letter Agreement Regarding Issuance of OP Units dated September 26, 2013 between Hallmark Student Housing Lexington, LLC, on one hand, and ACC OP (Lexington) LLC and American Campus Communities Operating Partnership, L.P., on the other hand.
31.1	American Campus Communities, Inc. - Certification of Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	American Campus Communities, Inc. - Certification of Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.3	American Campus Communities Operating Partnership, L.P. - Certification of Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.4	American Campus Communities Operating Partnership, L.P. - Certification of Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	American Campus Communities, Inc. - Certification of Chief Executive Officer Pursuant to 18 U. S. C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	American Campus Communities, Inc. - Certification of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.3	American Campus Communities Operating Partnership, L.P. - Certification of Chief Executive Officer Pursuant to 18 U. S. C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.4	American Campus Communities Operating Partnership, L.P. - Certification of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document

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 thereunto duly authorized.

Dated: November 8, 2013

AMERICAN CAMPUS COMMUNITIES, INC.

By: /s/ William C. Bayless, Jr.

William C. Bayless, Jr.
President and Chief Executive Officer

By: /s/ Jonathan A. Graf

Jonathan A. Graf
Executive Vice President,
Chief Financial Officer, Treasurer
and Secretary

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 thereunto duly authorized.

Dated: November 8, 2013

AMERICAN CAMPUS COMMUNITIES
OPERATING PARTNERSHIP, L.P.

By: American Campus Communities Holdings,
LLC, its general partner

By: American Campus Communities, Inc.,
its sole member

By: /s/ William C. Bayless, Jr.

William C. Bayless, Jr.
President and Chief Executive Officer

By: /s/ Jonathan A. Graf

Jonathan A. Graf
Executive Vice President,
Chief Financial Officer, Treasurer
and Secretary

