

**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): December 14, 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.

On December 14, 2018, Merit Medical Systems, Inc. ("Merit") entered into, and closed the transaction contemplated by, an Asset Purchase Agreement (the "Agreement") by and among Merit, Vascular Insights, LLC ("VI") and VI Management, Inc. ("Management" and, collectively with VI, the "Sellers"), pursuant to which Merit acquired substantially all of the assets of the Sellers (the "Acquisition"). The assets acquired in the Acquisition included, among other things, the ClariVein®IC system and the ClariVein®OC system (collectively, the "Systems"), which are specialty infusion and occlusion catheter systems with rotating wire tips designed for the controlled 360-degree dispersion of physician-specified agents to the targeted treatment area.

As consideration for the assets of Sellers, Merit paid to VI an aggregate amount of \$40,000,000 at closing of the Acquisition (the "Cash Purchase Price"), \$4,000,000 of which was deposited into an escrow account to secure certain indemnification obligations of Sellers. The Cash Purchase Price was subject to increase or decrease based on the amount of inventory held by Sellers at closing of the Acquisition. In addition to the Cash Purchase Price, Merit agreed to make certain contingent payments, subject to off-set for customary indemnification obligations, to VI as follows:

- Up to an additional \$10,000,000 if net sales of the Systems exceed \$15,000,000 on or prior to December 31, 2023; and
- Up to an additional \$10,000,000 if net sales of the Systems exceed \$20,000,000 on or prior to December 31, 2023.

The Agreement contains customary representations and warranties that survive the closing of the Acquisition for twelve (12) months, with certain exceptions, as well as customary indemnification provisions and covenants.

The foregoing summary of the principal terms of the Agreement is not complete and is qualified in its entirety by the actual terms and conditions of that agreement, a copy of which Merit intends to file in a future filing with the U.S. Securities & Exchange Commission (the "Commission"). The representations, warranties, and other terms contained in the Agreement were made solely for the purposes of such agreement and as of specified dates, were solely for the benefit of the parties to that agreement, and may be subject to limitations agreed upon by the contracting parties. Those representations and warranties may have been made for the purposes of allocating contractual risk between the parties to the Agreement instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Investors are not third-party beneficiaries under the Agreement and should not rely on the representations, warranties and covenants or any descriptions thereof as characterizations of the actual state of facts or condition of Merit, the Sellers or any of their respective subsidiaries or affiliates. Accordingly, investors should not rely on the representations and warranties as characterizations of the actual state of facts, since (i) they were made only as of the date of the Agreement or prior, specified dates, (ii) in some cases they are subject to qualifications with respect to materiality, knowledge and/or other matters, and (iii) they may be modified in important part by the underlying exhibits and schedules.

Item 7.01. Regulation FD Disclosure.

On December 17, 2018, Merit Medical Systems, Inc. ("Merit") Merit issued a press release, entitled "Merit Medical Acquires Assets of Vascular Insights, LLC" related to the Agreement described in Item 2.01, 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.

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 substantially all of the assets of the Sellers, 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, 2018 and subsequent filings with the SEC. Such risks and uncertainties include the following: Merit's potential inability to successfully manage the integration of the Sellers' assets and achieve anticipated financial results, product development and other anticipated benefits; unknown costs and risks associated with

the business and operations of the Sellers' 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 the Sellers; how the occurrence of any unanticipated event or cost in connection with the integration of the Sellers' assets 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 the Sellers' 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 the Sellers' 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 the Sellers' 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, 2018 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 9.01. Financial Statements and Exhibits.

(d) Exhibits

99.1 Press release entitled "Merit Medical Acquires Assets of Vascular Insights, LLC" issued on December 17, 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: May 1, 2019

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

EXHIBIT INDEX

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>
<u>99.1</u>	<u>Press release entitled "Merit Medical Acquires Assets of Vascular Insights, LLC" issued on December 17, 2018</u>



PRESS RELEASE

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South Jordan, Utah 84095
Telephone +1 801.253.1600
Fax +1 801.253.1688

FOR IMMEDIATE RELEASE

Date: December 17, 2018
Contact: Anne-Marie Wright, Vice President, Corporate Communications
Phone: (801) 208-4167 e-mail: awright@merit.com Fax: (801) 253-1688

Merit Medical Acquires Assets of Vascular Insights, LLC

SOUTH JORDAN, Utah, Dec. 17, 2018 (GLOBE NEWSWIRE) -- 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 acquired substantially all of the assets of Vascular Insights, LLC, based in Quincy, Massachusetts. Vascular Insights' primary assets are the ClariVein®IC and ClariVein®OC specialty infusion and occlusion catheter systems, which have been utilized in more than 120,000 cases to treat superficial venous disease, particularly below the knee (BTK), and venous leg ulcers (VLU). The ClariVein systems address a \$700 million global market. The ClariVein IC system has 510(k) clearance from the FDA, the ClariVein OC system is CE-marked, and the systems are covered by 43 patents issued worldwide.

The purchase price was \$40 million plus additional milestone payments that could amount to an additional \$20 million if certain sales targets are achieved.

"We have had our eye on these products for some time," said Fred P. Lampropoulos, Merit's Chairman and CEO. "These products complement our existing peripheral intervention sales platform, add to our capability to provide many existing Merit products, such as our micropuncture and vascular access products, and increase our ability to customize the entire procedure for our customers. Additionally, our global sales footprint allows for expansion of sales in previously underserved areas."

"We are excited to reach this agreement with Merit," said James (Chip) Draper, Chief Executive Officer of Vascular Insights. "This acquisition will allow ClariVein to reach more patients in more ways and in more places with the commitment to treat venous disease."

“I am thrilled that Merit and ClariVein will bring transformative relief to millions of venous disease sufferers worldwide, especially those suffering from debilitating venous leg ulcers,” said Michael Tal, M.D., inventor of the ClariVein systems and co-founder of Vascular Insights.

Parr Brown Gee & Loveless provided legal counsel to Merit. SunTrust Robinson Humphrey served as the financial advisor to Merit.

Latham & Watkins, LLP provided legal counsel to Vascular Insights. Oppenheimer & Co. Inc. served as the financial advisor to Vascular Insights.

2018 GUIDANCE

The effect of the Vascular Insights acquisition on Merit’s earnings for 2018 is expected to be dilutive to Merit’s earnings per share on a GAAP basis of approximately (\$0.03) per common share and on a non-GAAP basis of approximately (\$0.02) per common share, with both Merit’s GAAP, non-GAAP gross margins, and revenue contributions expected to be inconsequential for 2018. NOTE: Non-GAAP earnings per share dilution 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 Vascular Insights acquisition on Merit’s earnings for 2019 is expected to be dilutive to Merit’s earnings per share on a GAAP basis in the range of (\$0.05–\$0.07) per common share and accretive to Merit’s earnings per share on a non-GAAP basis in the range of \$0.00–\$0.02 per common share. Merit anticipates GAAP gross margins of 21-28% and non-GAAP gross margins of 60-65% on the ClariVein systems, dilutive to Merit’s GAAP gross margin in the range of 25-30 basis points and accretive to non-GAAP gross margin in the range of 8-14 basis points. Merit anticipates additional 2019 revenues in the range of \$10-\$11 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.

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

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 financial 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.

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.

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 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 the ClariVein systems and achieve anticipated financial results, product development and other anticipated benefits; uncertainties as to whether Merit will achieve sales, gross margin, net income, cash flow and other results from the Vascular Insights acquisition which are comparable to the experience of Vascular Insights; unknown costs and risks associated with the business and operations of Vascular Insights; Merit's internal models or the projections in this release; expenditures relating to research, development, testing and regulatory approval or clearance of Merit's products and risks that such products may not be developed successfully or approved for commercial use; governmental scrutiny and regulation of the medical device industry, including governmental inquiries, investigations and proceedings involving Merit or the business and operations conducted by Vascular Insights; restrictions on Merit's liquidity or business operations resulting from its debt agreements; infringement of Merit's technology or the assertion that Merit's technology (including the ClariVein systems) infringes the rights of other parties; product recalls and product liability claims; changes in customer purchasing patterns or the mix of products Merit sells; the potential of fines, penalties or other adverse consequences if Merit'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, including reforms to the procedures for approval or clearance of Merit's products by the U.S. Food & Drug Administration or comparable regulatory authorities in other jurisdictions; 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 suppliers, or failure of such suppliers to perform; fluctuations in exchange rates; concentration of a substantial portion of Merit's revenues among a few products and procedures; development of new products and technology that could render Merit's existing products obsolete; market acceptance of new products; volatility in the market price of Merit's common stock; modification or limitation of governmental or private insurance reimbursement policies; 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; introduction of products in a timely fashion; 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.