

Aralez Pharmaceuticals Inc.
Form 8-K
February 05, 2016

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): **February 5, 2016**

ARALEZ PHARMACEUTICALS INC.

(Exact name of registrant as specified in its charter)

British Columbia, Canada
(State or other jurisdiction of
incorporation)

333-208823
(Commission File Number)

Not Applicable
(IRS Employer Identification No.)

2800 Park Place
666 Burrard Street

V6C 2Z7

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Vancouver, British Columbia, Canada
(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code: **(604) 687-9444**

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:

- o Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - o Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - o Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - o Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01. Entry Into Material Definitive Agreement

The information set forth in Item 2.03 is incorporated by reference herein, and the information set forth in Item 1.01 of Pozen's Current Report on Form 8-K, filed with the Securities and Exchange Commission (the *SEC*) on December 8, 2015, is incorporated by reference into this Item 2.03.

Item 2.01. Completion of Acquisition or Disposition of Assets

As previously reported, on June 8, 2015, POZEN Inc., a Delaware corporation (*Pozen*) entered into an Agreement and Plan of Merger and Arrangement (the *Original Merger Agreement*) by and among Pozen, Tribute Pharmaceuticals Canada Inc., a corporation organized under the laws of the Province of Ontario (*Tribute*), Aguono Limited, (which was renamed Aralez Pharmaceuticals Limited and subsequently renamed Aralez Pharmaceuticals plc in connection with its re-registration as a public limited company under the laws of Ireland (*Aralez Ireland*)), Trafwell Limited (which was renamed Aralez Pharmaceuticals Holdings Limited), a private limited company incorporated in Ireland (*Holdings*), ARLZ US Acquisition Corp., a Delaware corporation, and ARLZ CA Acquisition Corp., a corporation incorporated under the laws of the Province of Ontario (*Can Merger Sub*), which was amended by Amendment No. 1 to Agreement and Plan of Merger and Arrangement, dated as of August 19, 2015 (*Amendment No. 1 to the Original Merger Agreement*), by and among Aralez Ireland, Pozen, Tribute, Holdings, ARLZ US Acquisition Corp., ARLZ US Acquisition II Corp., a Delaware corporation (*US Merger Sub*) and Can Merger Sub, and was further amended by Amendment No. 2 to Agreement and Plan of Merger and Arrangement, dated as of December 7, 2015 (*Amendment No. 2 to the Original Merger Agreement*) and, together with the Original Merger Agreement and Amendment No. 1 to the original merger agreement, the *Merger Agreement*), by and among Aralez Pharmaceuticals Inc., company formed under the laws of the Province of British Columbia, Canada (*Aralez*), Aralez Ireland, Pozen, Tribute, Holdings, US Merger Sub and Can Merger Sub, whereby, among other things, Aralez was added as a party in place of Aralez Ireland, which was removed as a party to the Merger Agreement.

On February 5, 2016, pursuant to the Merger Agreement, (i) Can Merger Sub and Tribute amalgamated by way of a court approved plan of arrangement under Canadian law (the *Arrangement*), resulting in Tribute and Can Merger Sub continuing as one corporation (*Amalco*) and (ii) US Merger Sub merged with and into Pozen, with Pozen as the surviving corporation in the merger (the *Merger*) and, together with the Arrangement, the *Transactions*). Following consummation of the Transactions, each of Pozen and Amalco became indirect wholly owned subsidiaries of Aralez.

Pursuant to the Arrangement, Tribute shareholders received 0.1455 common shares of Aralez, no par value per share (the *Aralez Shares*) in exchange for each common share of Tribute, no par value per share (the *Tribute Shares*) held by such shareholders. At the effective time of the Merger, each share of Pozen common stock, \$0.001 par value per share (the *Pozen Common Stock*) was cancelled and automatically converted into the right to receive one Aralez Share.

Pursuant to the Amended and Restated Subscription Agreement (the *Amended and Restated Subscription Agreement*) dated as of December 7, 2015 by and among Aralez, Aralez Ireland, Tribute, Pozen, QLT Inc. (*Purchaser*) and the following investors thereto: Deerfield Private Design Fund III, L.P. (*Deerfield Private Design*), Deerfield International Master Fund, L.P. (*Deerfield International*), and Deerfield Partners, L.P. (*Deerfield Partners*); Broadfin Healthcare Master Fund, Ltd.; JW Partners, LP; and JW Opportunities Master Fund, Ltd. (each, an *Investor*) and together, the *Investors*), immediately prior to consummation of the Arrangement on February 5, 2016, Tribute sold Purchaser and the Investors US\$75 million of Tribute Shares in a private placement at an equivalent Pozen purchase

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price per share of US\$6.25. Upon consummation of the Merger, Tribute Shares were exchanged for Aralez Shares.

The Aralez Shares issued to stockholders of Pozen in connection with the Merger were registered under the Securities Act of 1933, as amended (the *Securities Act*) pursuant to Aralez's registration statement on Form S-4 (File No. 333-208523) (the *Registration Statement*) filed with the SEC which was declared effective on December 28, 2015. The definitive proxy statement/prospectus of Aralez and Pozen, dated December 28, 2015 that forms a part of the Registration Statement contains additional information about the Transactions and the other transactions contemplated by the Merger Agreement, including a description of the treatment of equity awards and information concerning the interests of directors, executive officers and affiliates of Pozen in the Transactions.

Pursuant to Rule 12g-3 under the Securities Exchange Act of 1934, as amended (the *Exchange Act*), Aralez is the successor issuer to Pozen. The Aralez Shares are deemed to be registered under Section 12(b) of the Exchange Act, and Aralez is subject to the informational requirements of the Exchange Act, and the rules and regulations promulgated thereunder. The Aralez Shares were approved for listing on The NASDAQ Global Market (*NASDAQ*), and will begin trading under the symbol *ARLZ* on or about February 8, 2016, and are conditionally approved for listing on the Toronto Stock Exchange (*TSX*) under the symbol *ARZ* and will begin trading on or about February 10, 2016.

Prior to the Transactions, the Pozen Common Stock was registered pursuant to Section 12(b) of the Exchange Act and listed on NASDAQ, and the Tribute Shares were listed on TSXV. Pozen Common Stock will be suspended from trading on Nasdaq as of the close of business on February 5, 2016, and Tribute Shares will be suspended from trading on the TSXV as of the close of business on February 5, 2016.

Pozen has requested that NASDAQ file with the SEC a Form 25 to terminate Pozen's reporting obligations under Section 12(b) of the Exchange Act for the Pozen Common Stock. Pozen will then file a Form 15 with the SEC to terminate its reporting obligations under Section 12(g) of the Exchange Act for the Pozen Common Stock and to suspend its reporting obligations under Section 15(d) of the Exchange Act for the Pozen Common Stock. Tribute will file a Form 15 with the SEC to terminate its reporting obligations under Section 12(g) of the Exchange Act for the Tribute Shares and to suspend its reporting obligations under Section 15(d) of the Exchange Act for the Tribute Shares.

The foregoing description of the Merger Agreement, the Transactions and the Amended and Restated Subscription Agreement do not purport to be complete and are qualified in their entirety by reference to the full text of the following, each incorporated herein by reference: the Original Merger Agreement filed as Exhibit 2.1 to Pozen's current report filed on Form 8-K dated as of June 11, 2015, Amendment No. 1 to the Original Merger Agreement and Amendment No. 2 to the Original Merger Agreement, filed as Exhibits 2.1 and 2.2, respectively, to Pozen's current report filed on Form 8-K dated as of December 8, 2015, and the Amended and Restated Subscription Agreement, filed as Exhibit 10.3 to Pozen's current report filed on Form 8-K dated as of December 8, 2015.

Item 2.03. Creation of a Direct Financial Obligation

Following consummation of the Transactions, Aralez assumed obligations of convertible notes issued by Tribute pursuant to the Second Amended and Restated Debt Facility Agreement dated as of December 7, 2015 (the *Second Amended and Restated Facility Agreement*) by and among Aralez, Pozen, Tribute, and the following lenders: Deerfield Private Design, Deerfield International, and Deerfield Partners (the *Lenders*).

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The foregoing description of the Second Amended and Restated Facility Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Second Amended and Restated Facility Agreement, filed as Exhibit 10.1 to Pozen's current report filed on Form 8-K dated as of December 8, 2015 and incorporated herein by reference. The information set forth in Item 1.01 of this

Current Report on Form 8-K and in Item 1.01 of Pozen's Current Report on Form 8-K, filed with the SEC on December 8, 2015, is incorporated by reference into this Item 2.03.

Item 3.03. Material Modification to Rights of Securityholders

In connection with the Transactions, on February 5, 2014, (i) each share of Pozen Common Stock was cancelled and automatically converted into the right to receive one Aralez Common Share, and (ii) each common share of Tribute was cancelled and automatically converted into the right to receive 0.1455 Aralez Shares. The rights of holders of Aralez Shares are governed by the Business Corporations Act (British Columbia) (the *BCBCA*) and by Aralez's Amended and Restated Articles, included as exhibit 3.2 to the Registration Statement and incorporated herein by reference. The description of the Aralez Shares and the rights of shareholders under the BCBCA are contained under the caption "Comparison of the Rights of Parent Shareholders and Pozen Stockholders" in the Registration Statement, and are incorporated herein by reference.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers

Appointment of Directors

Upon consummation of the Transactions, all of the members of the Board of Directors of Pozen became members of the Board of Directors of Aralez (the *Aralez Board*). Pursuant to the terms of the Merger Agreement and effective upon the consummation of the Transactions, the following individuals were designated and appointed to the Aralez Board: Jason Aryeh, Robert Harris and F. Martin Thrasher. Following such appointments, the Aralez Board is constituted as follows:

Aralez Board

Adrian Adams

Neal F. Fowler

Arthur S. Kirsch

Kenneth B. Lee, Jr.

Seth A. Rudnick, M.D.

Jason Aryeh

Robert Harris

F. Martin Thrasher

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There are no arrangements or understandings between any director and any other person pursuant to which the director was selected as a director, other than the provisions of the Merger Agreement relating to the appointment of directors.

Aralez Pharmaceuticals Inc. 2016 Long-Term Incentive Plan

At Pozen's Special Meeting of Stockholders (the *Special Meeting*) held on February 2, 2016, stockholders of Pozen approved the Aralez Pharmaceuticals 2016 Long-Term Incentive Plan (the *Plan*). The Plan is attached hereto as Exhibit 10.3, and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits

(d) List of Exhibits

EXHIBIT NO.	DESCRIPTION
2.1	Agreement and Plan of Merger and Arrangement, dated as of June 8, 2015, by and among Tribute Pharmaceuticals Canada Inc., Aguono Limited, Trafwell Limited, ARLZ US Acquisition Corp., ARLZ CA Acquisition Corp. and POZEN Inc. (incorporated by reference Exhibit 2.1 to POZEN Inc.'s Current Report on Form 8-K filed June 11, 2015).
2.2	Amendment No. 1 to the Agreement and Plan of Merger and Arrangement, dated as of August 19, 2015, by and among Tribute Pharmaceuticals Canada Inc., Aralez Pharmaceuticals Limited, Trafwell Limited, ARLZ US Acquisition Corp., ARLZ CA Acquisition Corp., ARLZ US Acquisition II Corp. and POZEN Inc. (incorporated by reference Exhibit 2.1 to POZEN Inc.'s Current Report on Form 8-K filed December 8, 2015).
2.3	Amendment No. 2 to the Agreement and Plan of Merger and Arrangement, dated as of December 7, 2015, by and among Tribute Pharmaceuticals Canada Inc., Aralez Pharmaceuticals plc, Aralez Pharmaceuticals Inc., Aralez Pharmaceuticals Holdings Limited, ARLZ US Acquisition II Corp., ARLZ CA Acquisition Corp. and POZEN Inc. (incorporated by reference to Exhibit 2.2 to POZEN Inc.'s Current Report on Form 8-K filed December 8, 2015).
10.1	Second Amended and Restated Facility Agreement, dated as of December 7, 2015, among Aralez Pharmaceuticals Inc., POZEN Inc., Tribute Pharmaceuticals Canada Inc., Deerfield Private Design Fund III, L.P., Deerfield International Master Fund, L.P., and Deerfield Partners, L.P. (incorporated by reference to Exhibit 10.1 to POZEN Inc.'s Current Report on Form 8-K filed December 8, 2015).
10.2	Amended and Restated Share Subscription Agreement, dated as of December 7, 2015, among Aralez Pharmaceuticals Inc., Aralez Pharmaceuticals plc, POZEN Inc., Tribute

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Pharmaceuticals Canada Inc., QLT Inc., Deerfield Private Design Fund III, L.P., Deerfield International Master Fund, L.P., Deerfield Partners, L.P., Broadfin Healthcare Master Fund Ltd, JW Partners, LP, JW Opportunities Fund, LLC, and JW Opportunities Master Fund, Ltd. (incorporated by reference to Exhibit 10.3 to POZEN Inc. s Current Report on Form 8-K filed December 8, 2015).

10.3 Aralez Pharmaceuticals Inc. 2016 Long-Term Incentive Plan.*

*Filed herewith

SIGNATURE

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

Date: February 5, 2016

ARALEZ PHARMACEUTICALS INC.

By: /s/ Scott Charles
Scott Charles
Chief Financial Officer