

MAXLINEAR INC
Form 10-Q
May 02, 2012
[Table of Contents](#)

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

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

For the Quarterly Period Ended March 31, 2012

OR

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

For the Transition Period From to

Commission file number: 001-34666

MaxLinear, Inc.

(Exact name of Registrant as specified in its charter)

Edgar Filing: MAXLINEAR INC - Form 10-Q

Delaware
(State or other jurisdiction of
incorporation or organization)

14-1896129
(I.R.S. Employer
Identification No.)

2051 Palomar Airport Road, Suite 100

Carlsbad, California
(Address of principal executive offices)

92011
(Zip Code)

(760) 692-0711
(Registrant's telephone number, including area code)

N/A

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

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

Large accelerated filer Accelerated filer
Non-accelerated filer (Do not check if a smaller reporting company) Smaller reporting company
Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

As of April 25, 2012, the registrant has 22,210,524 shares of Class A common stock, par value \$0.0001, and 11,188,001 shares of Class B common stock, par value \$0.0001, outstanding.

Table of Contents

MAXLINEAR, INC.

QUARTERLY REPORT ON FORM 10-Q

TABLE OF CONTENTS

	Page
Part I	3
Item 1.	3
	3
	4
	5
	6
	7
Item 2.	17
Item 3.	23
Item 4.	23
Part II	25
Item 1.	25
Item 1A.	25
Item 2.	42
Item 3.	43
Item 4.	43
Item 5.	43
Item 6.	44

Table of Contents**PART I FINANCIAL INFORMATION****ITEM 1. FINANCIAL STATEMENTS****MAXLINEAR, INC.****UNAUDITED CONDENSED CONSOLIDATED BALANCE SHEETS**

(in thousands, except par amounts)

	March 31, 2012	December 31, 2011
Assets		
Current assets:		
Cash and cash equivalents	\$ 23,796	\$ 28,026
Short-term investments, available-for-sale	52,299	47,156
Accounts receivable	11,069	10,421
Inventory	6,766	8,082
Prepaid expenses and other current assets	1,163	1,394
Total current assets	95,093	95,079
Property and equipment, net	5,052	5,494
Long-term investments, available-for-sale	7,323	10,554
Intangible assets	834	1,021
Other long-term assets	231	228
Total assets	\$ 108,533	\$ 112,376
Liabilities and stockholders' equity (deficit)		
Current liabilities:		
Accounts payable	\$ 3,475	\$ 4,936
Deferred revenue and deferred profit	2,514	4,029
Accrued expenses	9,621	7,403
Accrued compensation	3,661	2,094
Current portion of capital lease obligations	9	32
Total current liabilities	19,280	18,494
Other long-term liabilities	492	855
Capital lease obligations, net of current portion	1	2
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, \$0.0001 par value; 25,000 shares authorized, no shares issued or outstanding		
Common stock, \$0.0001 par value; 550,000 shares authorized, no shares issued or outstanding		
Class A common stock, \$0.0001 par value; 500,000 shares authorized, 22,194 and 19,107 shares issued and outstanding at March 31, 2012 and December 31, 2011, respectively	2	2
Class B common stock, \$0.0001 par value; 500,000 shares authorized, 11,188 and 14,143 shares issued and outstanding at March 31, 2012 and December 31, 2011, respectively	1	1
Additional paid-in capital	128,973	126,695
Accumulated other comprehensive income	33	14
Accumulated deficit	(40,249)	(33,687)

Edgar Filing: MAXLINEAR INC - Form 10-Q

Total stockholders' equity	88,760	93,025
Total liabilities and stockholders' equity	\$ 108,533	\$ 112,376

See accompanying notes.

Table of Contents**MAXLINEAR, INC.****UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS****(in thousands, except per share data)**

	Three Months Ended	
	March 31,	
	2012	2011
Net revenue	\$ 20,683	\$ 16,908
Cost of net revenue	8,267	6,077
Gross profit	12,416	10,831
Operating expenses:		
Research and development	11,908	7,866
Selling, general and administrative	6,959	4,832
Total operating expenses	18,867	12,698
Loss from operations	(6,451)	(1,867)
Interest income	65	93
Interest expense	(19)	(4)
Other expense, net	(96)	(51)
Loss before income taxes	(6,501)	(1,829)
Provision (benefit) for income taxes	61	(681)
Net loss	\$ (6,562)	\$ (1,148)
Net loss per share:		
Basic	\$ (0.20)	\$ (0.04)
Diluted	\$ (0.20)	\$ (0.04)
Shares used to compute net loss per share:		
Basic	33,312	32,037
Diluted	33,312	32,037

See accompanying notes.

Table of Contents

MAXLINEAR, INC.

UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS

(in thousands)

	Three Months Ended March 31,	
	2012	2011
Net loss	\$ (6,562)	\$ (1,148)
Other comprehensive income (loss):		
Unrealized gain (loss) on investments	14	(7)
Foreign currency translation adjustments	5	4
Total comprehensive loss	\$ (6,543)	\$ (1,151)

See accompanying notes.

Table of Contents**MAXLINEAR, INC.****UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**

(in thousands)

	Three Months Ended March 31,	
	2012	2011
Operating Activities		
Net loss	\$ (6,562)	\$ (1,148)
Adjustments to reconcile net loss to cash used in operating activities:		
Amortization and depreciation	870	676
Amortization of investment premiums, net	249	317
Stock-based compensation	2,223	1,605
Deferred income taxes		(691)
Gain on sale of available-for-sale securities		
Write down of long-lived assets	69	1
Changes in operating assets and liabilities:		
Accounts receivable	(648)	(4,546)
Inventory	1,316	2,189
Prepaid and other assets	228	461
Accounts payable and accrued expenses	1,486	1,159
Amounts due to related party		(1,746)
Accrued compensation	1,567	456
Deferred revenue and deferred profit	(1,515)	(818)
Other long-term liabilities	(363)	(9)
Net cash used in operating activities	(1,080)	(2,094)
Investing Activities		
Purchase of property and equipment	(848)	(664)
Purchase of intangible assets	(195)	
Purchases of available-for-sale securities	(32,390)	(28,642)
Maturities of available-for-sale securities	30,250	42,565
Net cash provided by (used in) investing activities	(3,183)	13,259
Financing Activities		
Payments on capital leases	(24)	(25)
Net proceeds from issuance of common stock	55	441
Net cash provided by financing activities	31	416
Effect of exchange rate changes on cash and cash equivalents	2	3
Increase (decrease) in cash and cash equivalents	(4,230)	11,584
Cash and cash equivalents at beginning of period	28,026	21,563
Cash and cash equivalents at end of period	\$ 23,796	\$ 33,147

See accompanying notes.

Table of Contents

MAXLINEAR, INC.

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(in thousands, except per share amounts and percentage data)

1. Organization and Summary of Significant Accounting Policies

Description of Business

MaxLinear, Inc. (the Company) was incorporated in Delaware in September 2003. The Company is a provider of integrated, radio-frequency and mixed-signal semiconductor solutions for broadband communication applications whose customers include module makers, original equipment manufacturers, or OEMs, and original design manufacturers, or ODMs, who incorporate the Company's products in a wide range of stationary and mobile electronic devices including mobile handsets, cable and terrestrial set top boxes, televisions, personal computers and netbooks and automotive entertainment applications. The Company is a fabless semiconductor company focusing its resources on the design, sales and marketing of its products.

Basis of Presentation and Principles of Consolidation

The unaudited condensed consolidated financial statements include the accounts of MaxLinear, Inc. and its wholly owned subsidiaries. All intercompany transactions and investments have been eliminated in consolidation.

The functional currency of certain foreign subsidiaries is the local currency. Accordingly, assets and liabilities of these foreign subsidiaries are translated at the current exchange rate at the balance sheet date and historical rates for equity. Revenue and expense components are translated at weighted average exchange rates in effect during the period. Gains and losses resulting from foreign currency translation are included as a component of stockholders' equity. Foreign currency transaction gains and losses are included in the results of operations and, to date, have not been significant.

The Company has prepared the accompanying unaudited condensed consolidated financial statements in accordance with accounting principles generally accepted in the United States of America for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and disclosures required by U.S. generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments, which include only normal recurring adjustments, considered necessary for a fair presentation have been included. Operating results for the three months ended March 31, 2012 are not necessarily indicative of the results that may be expected for the year ending December 31, 2012. These unaudited condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and related notes thereto for the year ended December 31, 2011, included in the Annual Report on Form 10-K filed by the Company with the Securities and Exchange Commission (SEC) on March 14, 2012.

Use of Estimates

The preparation of unaudited condensed consolidated financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the unaudited condensed consolidated financial statements and accompanying notes of the unaudited condensed consolidated financial statements. Actual results could differ from those estimates.

Revenue Recognition

Revenue is generated from sales of the Company's integrated circuits. The Company recognizes revenue when all of the following criteria are met: 1) there is persuasive evidence that an arrangement exists, 2) delivery of goods has occurred, 3) the sales price is fixed or determinable and 4) collectibility is reasonably assured. Title to product transfers to customers either when it is shipped to or received by the customer, based on the terms of the specific agreement with the customer.

Revenue is recorded based on the facts at the time of sale. Amounts that are not probable of collection once the product has shipped and title has transferred to the customer are deferred until the amount that is probable of collection can be determined. Items that are considered when determining the amounts that will be ultimately collected are: a customer's overall creditworthiness and payment history, customer rights to

Edgar Filing: MAXLINEAR INC - Form 10-Q

return unsold product, customer rights to price protection, customer payment terms conditioned on sale or use of product by the customer, or extended payment terms granted to a customer.

For distributor transactions, revenue is not recognized until product is shipped to the end customer and the amount that will ultimately be collected is determinable. Upon shipment of product to these distributors, title to the inventory transfers to the distributor and the distributor is invoiced, generally with 30 day terms. On shipments where revenue is not recognized, the Company records a trade receivable for the selling price as there is a legally enforceable right to payment, relieving the inventory for the carrying value of goods shipped since legal title has passed to the distributor, and records the corresponding gross profit in the consolidated balance sheet as a component of deferred revenue and deferred profit, representing the difference between the receivable recorded and the cost of inventory shipped.

Table of Contents

MAXLINEAR, INC.

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(in thousands, except per share amounts and percentage data)

The Company records reductions in revenue for estimated pricing adjustments related to price protection and unit rebate agreements, in the same period that the related revenue is recorded. Price protection pricing adjustments are recorded at the time of sale as a reduction to revenue and an increase in the Company's accrued liabilities. The Company may enter into unit rebate agreements with end customers based on volume purchases. The Company estimates that all of the unit rebates will be achieved based on the history of these programs, reduces the average selling price of the product sold under the rebate program and defers revenue for the difference between the amount billed to the customer and the adjusted average selling price. Once the targeted level is achieved, the deferred revenue is recognized as revenue as rebated products are shipped to the end customer. Deferred revenue associated with rebate programs is included in deferred revenue and deferred profit in the consolidated balance sheet.

Recent Accounting Pronouncements

Effective January 1, 2012, the Company adopted the FASB's updated guidance on fair value measurements that clarifies the application of existing guidance and disclosure requirements, changes certain fair value measurement principles and requires additional disclosures about fair value measurements. The Company's adoption of the updated guidance did not have a material impact on its consolidated financial statements.

Effective January 1, 2012, the Company adopted the FASB's new standard regarding the presentation of comprehensive income. The new standard requires the presentation of comprehensive income, the components of net income and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. The new standard also requires presentation on the face of the financial statements of reclassification adjustments for items that are reclassified from other comprehensive income to net income in the statement where the components of net income and the components of other comprehensive income are presented. The Company's adoption of the new standard did not have a material impact on its consolidated financial statements.

2. Net Income (Loss) Per Share

Net income (loss) per share is computed as required by the accounting standard for earnings per share. Basic EPS is calculated by dividing net income (loss) by the weighted-average number of common shares outstanding for the period, without consideration for common stock equivalents. Diluted EPS is computed by dividing net income (loss) by the weighted-average number of common shares outstanding for the period and the weighted-average number of dilutive common stock equivalents outstanding for the period determined using the treasury-stock method. For purposes of this calculation, common stock options and restricted stock units are considered to be common stock equivalents and are only included in the calculation of diluted EPS when their effect is dilutive.

The Company has two classes of stock outstanding, Class A common stock and Class B common stock. The economic rights of the Class A common stock and Class B common stock, including rights in connection with dividends and payments upon a liquidation or merger are identical, and the Class A common stock and Class B common stock will be treated equally, identically and ratably, unless differential treatment is approved by the Class A common stock and Class B common stock, each voting separately as a class. The Company computes basic earnings per share by dividing net income (loss) by the weighted average number of shares of Class A

Table of Contents

MAXLINEAR, INC.

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(in thousands, except per share amounts and percentage data)

and Class B common stock outstanding during the period. For diluted earnings per share, the Company divides net income (loss) by the sum of the weighted average number of shares of Class A and Class B common stock outstanding and the potential number of shares of dilutive Class A and Class B common stock outstanding during the period.

	\$0000.00	\$0000.00
	Three Months Ended	
	March 31,	
	2012	2011
Historical		
Numerator:		
Net loss	\$ (6,562)	\$ (1,148)
Denominator:		
Weighted average common shares outstanding basic	33,312	32,037
Dilutive common stock equivalents		
Weighted average common shares outstanding diluted	33,312	32,037
Net loss per share:		
Basic	\$ (0.20)	\$ (0.04)
Diluted	\$ (0.20)	\$ (0.04)

The following table presents a summary of the Company's common stock equivalents resulting from outstanding equity awards not included in the calculation of diluted net income (loss) per share due to their anti-dilutive nature:

	\$000000.00	\$000000.00
	Three Months Ended	
	March 31,	
	2012	2011
Stock options	4,259	3,456
Restricted stock units	1,268	
	5,527	3,456

Table of Contents**MAXLINEAR, INC.****NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS****(in thousands, except per share amounts and percentage data)****3. Financial Instruments**

The composition of financial instruments is as follows:

	Amortized Cost	March 31, 2012 Gross Unrealized		Fair Value
		Gains	Losses	
Money market funds	\$ 12,639	\$	\$	\$ 12,639
Government debt securities	6,008	1		6,009
Corporate debt securities	53,613	18	(19)	53,612
	72,260	19	(19)	72,260
Less amounts included in cash and cash equivalents	(12,638)			(12,638)
	\$ 59,622	\$ 19	\$ (19)	\$ 59,622

	Amortized Cost	December 31, 2011 Gross Unrealized		Fair Value
		Gains	Losses	
Money market funds	\$ 14,372	\$	\$	\$ 14,372
Government debt securities	15,966	3		15,969
Corporate debt securities	41,764	7	(30)	41,741
	72,102	10	(30)	72,082
Less amounts included in cash and cash equivalents	(14,372)			(14,372)
	\$ 57,730	\$ 10	\$ (30)	\$ 57,710

As of March 31, 2012, the Company held 15 corporate debt securities with an aggregate fair value of \$31,328 that were in an unrealized loss position for less than 12 months. The gross unrealized losses of \$19 at March 31, 2012 represent temporary impairments on corporate debt securities related to multiple issuers, and were primarily caused by fluctuations in U.S. interest rates. The Company has determined that the gross unrealized losses on these securities at March 31, 2012 are temporary in nature. The Company evaluates securities for other-than-temporary impairment on a quarterly basis. Impairment is evaluated considering numerous factors, and their relative significance varies depending on the situation. Factors considered include the length of time and extent to which fair value has been less than the cost basis, the financial condition and near-term prospects of the issuer, and our intent and ability to hold the security in order to allow for an anticipated recovery in fair value.

All of the Company's long-term available-for-sale securities were due between one and two years as of March 31, 2012.

The fair values of the Company's financial instruments are the amounts that would be received in an asset sale or paid to transfer a liability in an orderly transaction between unaffiliated market participants and are recorded using a hierarchical disclosure framework based upon the level of subjectivity of the inputs used in measuring assets and liabilities. The levels are described below:

Edgar Filing: MAXLINEAR INC - Form 10-Q

Level 1: Quoted prices (unadjusted) in active markets that are accessible at the measurement date for assets or liabilities.

Level 2: Observable prices that are based on inputs not quoted on active markets, but corroborated by market data.

Level 3: Unobservable inputs are used when little or no market data is available.

The Company classifies its financial instruments within Level 1 or Level 2 of the fair value hierarchy. This is because the Company values financial instruments using quoted market prices or alternate pricing sources and models utilizing market observable inputs. The Company held no Level 3 financial instruments as of March 31, 2012 and December 31, 2011.

Table of Contents**MAXLINEAR, INC.****NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

(in thousands, except per share amounts and percentage data)

The following table presents a summary of the Company's financial instruments that are measured on a recurring basis:

	Fair Value Measurements at March 31, 2012			
	Balance at March 31, 2012	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Money market funds	\$ 12,639	\$ 12,639	\$	\$
Government debt securities	6,009		6,009	
Corporate debt securities	53,612		53,612	
	\$ 72,260	\$ 12,639	\$ 59,621	\$

	Fair Value Measurements at December 31, 2011			
	Balance at December 31, 2011	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Money market funds	\$ 14,372	\$ 14,372	\$	\$
Government debt securities	15,969		15,969	
Corporate debt securities	41,741		41,741	
	\$ 72,082	\$ 14,372	\$ 57,710	\$

There were no transfers between Level 1, Level 2 or Level 3 securities in the three months ended March 31, 2012.

4. Balance Sheet Details

Inventory consists of the following:

	March 31, 2012	December 31, 2011
Work-in-process	\$ 3,432	\$ 3,641
Finished goods	3,334	4,441
	\$ 6,766	\$ 8,082

Table of Contents**MAXLINEAR, INC.****NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

(in thousands, except per share amounts and percentage data)

Property and equipment consist of the following:

	\$00000.00 Useful Life (in Years)	\$00000.00 March 31, 2012	\$00000.00 December 31, 2011
Furniture and fixtures	5	\$ 305	\$ 305
Machinery and equipment	3 -5	6,998	6,875
Masks and production equipment	2	3,026	3,249
Software	3	626	558
Leasehold improvements	4 -5	489	489
Construction in progress	N/A	113	6
		11,557	11,482
Less accumulated depreciation and amortization		(6,505)	(5,988)
		\$ 5,052	\$ 5,494

The net book value of property and equipment acquired under capital leases totaled \$6 and \$21 at March 31, 2012 and December 31, 2011, respectively.

Intangible assets consist of the following:

	Weighted Average Amortization Period (in Years)	March 31, 2012	December 31, 2011
Licensed technology	3	\$ 1,865	\$ 1,865
Less accumulated amortization		(1,031)	(844)
		\$ 834	\$ 1,021

Table of Contents**MAXLINEAR, INC.****NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS****(in thousands, except per share amounts and percentage data)**

The following table presents future amortization of the Company's intangible assets at March 31, 2012:

	Amortization
2012	\$ 559
2013	275
Total	\$ 834

Deferred revenue and deferred profit consist of the following:

	March 31, 2012	December 31, 2011
Deferred revenue rebates	\$ 366	\$ 190
Deferred revenue distributor transactions	3,605	5,606
Deferred cost of net revenue distributor transactions	(1,457)	(1,767)
	\$ 2,514	\$ 4,029

Accrued expenses consist of the following:

	March 31, 2012	December 31, 2011
Accrued software license payments	\$ 75	\$ 214
Accrued technology license payments	3,238	2,794
Accrued professional fees	369	203
Accrued price protection liability	3,383	2,856
Estimated export compliance costs	1,625	750
Other	931	586
	\$ 9,621	\$ 7,403

Other long-term liabilities consist of the following:

	March 31, 2012	December 31, 2011
Accrued technology license payments	\$ 256	\$ 371
Deferred rent	236	248
Other	236	236

\$ 492 \$ 855

5. Stock-Based Compensation and Employee Benefit Plans

Stock-Based Compensation

The Company uses the Black-Scholes valuation model to calculate the fair value of stock options and employee stock purchase rights granted to employees. The Company calculates the fair value of restricted stock units based on the fair market value of our Class A common stock on the grant date. The weighted-average grant date fair value per share of the restricted stock units granted in the three months ended March 31, 2012 was \$5.51. No restricted stock units were granted during the three months ended March 31, 2011.

Table of Contents**MAXLINEAR, INC.****NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS****(in thousands, except per share amounts and percentage data)**

The fair values of stock options and employee stock purchase rights were estimated at their respective grant date using the following assumptions:

Stock Options

	\$00000.00	\$00000.00
	Three Months Ended	
	March 31,	
	2012	2011
Weighted-average grant date fair value per share	\$ 2.45	\$ 5.34
Risk-free interest rate	0.88%	2.21%
Dividend yield		
Expected life (years)	4.58	5.46
Volatility	56.00%	52.46%

Employee Stock Purchase Rights

	Three Months Ended	
	March 31,	
	2012	2011
Weighted-average grant date fair value per share	\$ 1.89	\$ 3.18
Risk-free interest rate	0.05%	0.14%
Dividend yield		
Expected life (years)	0.5	0.5
Volatility	72.84%	55.32%

The risk-free interest rate assumption was based on the United States Treasury's rates for U.S. Treasury zero-coupon bonds with maturities similar to those of the expected term of the award being valued. The assumed dividend yield was based on the Company's expectation of paying dividends in the foreseeable future. The weighted-average expected life of options was calculated using the simplified method as prescribed by guidance provided by the SEC. This decision was based on the lack of relevant historical data due to the Company's limited historical experience. In addition, due to the Company's limited historical data, the estimated volatility incorporates the historical volatility of comparable companies whose share prices are publicly available.

The Company recognized stock-based compensation in the statements of operations as follows:

	\$00000.00	\$00000.00
	Three Months Ended	
	March 31,	
	2012	2011
Cost of net revenue	\$ 18	\$ 23
Research and development	1,448	795
Selling, general and administrative	757	787
	\$ 2,223	\$ 1,605

Table of Contents

MAXLINEAR, INC.

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(in thousands, except per share amounts and percentage data)

Employee Benefit Plans

2010 Equity Incentive Plan

The 2010 Plan provides for the grant of incentive stock options, non-statutory stock options, restricted stock awards, restricted stock unit awards, stock appreciation rights, performance-based stock awards, and other forms of equity compensation, or collectively, stock awards. The exercise price for an incentive or a non-statutory stock option cannot be less than 100% of the fair market value of the Company's Class A common stock on the date of grant. Options granted will generally vest over a four-year period and the term can be from seven to ten years.

On January 1, 2012, 1,329 shares of Class A common stock were automatically added to the shares authorized for issuance under the 2010 Plan pursuant to an evergreen provision contained in the 2010 Plan.

2010 Employee Stock Purchase Plan

The ESPP is implemented through a series of offerings of purchase rights to eligible employees. Generally, all regular employees, including executive officers, employed by the Company may participate in the ESPP and may contribute up to 15% of their earnings for the purchase of the Company's common stock under the ESPP. Unless otherwise determined by the Company's board of directors, Class A common stock will be purchased for accounts of employees participating in the ESPP at a price per share equal to the lower of (a) 85% of the fair market value of a share of the Company's Class A common stock on the first date of an offering or (b) 85% of the fair market value of a share of the Company's Class A common stock on the date of purchase.

On January 1, 2012, 415 shares of Class A common stock were automatically added to the shares authorized for issuance under the ESPP pursuant to an evergreen provision contained in the ESPP.

Common Stock

At March 31, 2012, the Company had 500 million authorized shares of Class A common stock and 500 million authorized shares of Class B common stock. Holders of the Company's Class A and Class B common stock have identical voting rights, except that holders of Class A common stock are entitled to one vote per share and holders of Class B common stock are entitled to ten votes per share with respect to transactions that would result in a change of control of the Company or that relate to the Company's equity incentive plans. In addition, holders of Class B common stock have the exclusive right to elect two member of the Company's Board of Directors, each referred to as a Class B Director. The shares of Class B common stock are not publicly traded. Each share of Class B common stock is convertible at any time at the option of the holder into one share of Class A common stock and in most instances automatically converts upon sale or other transfer.

6. Income Taxes

During 2011, the Company evaluated its net deferred income tax assets, including an assessment of the cumulative income or loss over the prior three-year period and future periods, to determine if a valuation allowance is required. A significant negative factor in the Company's assessment was that the Company was in a three-year historical cumulative loss as of the end of the fourth quarter of fiscal 2011 and expects to continue to be in a three year cumulative loss through the near term. After considering the Company's history of losses and management's expectation of additional near-term losses during 2011, the Company recorded a valuation allowance on its net federal deferred tax assets, with a corresponding charge to its income tax provision, of approximately \$8.2 million. In addition, the Company continues to maintain a valuation allowance to offset the California deferred tax assets as realization of such assets does not meet the more-likely-than-not threshold required under accounting guidelines. The Company continues to assess the need for a valuation allowance on the deferred tax asset by evaluating both positive and negative evidence that may exist.

Edgar Filing: MAXLINEAR INC - Form 10-Q

The provision for income taxes differs from the federal statutory rate primarily due to the establishment of a valuation allowance against the Company's net federal deferred tax asset. During the three months ended March 31, 2012, the Company's unrecognized tax benefits increased by \$40. The Company does not anticipate its unrecognized tax benefits will change significantly over the next 12 months. There were no accrued interest and penalties associated with uncertain tax positions as of March 31, 2012.

Table of Contents

MAXLINEAR, INC.

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(in thousands, except per share amounts and percentage data)

7. Subsequent Events

In April 2012, the Company commenced an offer to exchange (the Exchange Offer) certain outstanding options to purchase shares of the Company's Class A common stock and shares of the Company's Class B common stock, whether vested or unvested, that (i) have an exercise price per share greater than \$5.00 (or if higher, the closing sales price of the Company's Class A common stock on the expiration date of this offer), (ii) were granted under either the MaxLinear 2010 Equity Incentive Plan or the MaxLinear 2004 Stock Plan, and (iii) are held by Eligible Employees for restricted stock units. The Exchange Offer provides that, if an eligible employee participates and surrenders his or her Eligible Option(s), he or she will receive a new unvested RSU award for a number of shares that is equal to fifty percent (50%) of the aggregate number of shares underlying the eligible options that were surrendered by the eligible employee.

The actual number of shares of Class A common stock subject to the RSUs to be issued in the Exchange Offer will depend on the number of shares of Class A common stock and Class B common stock subject to the unexercised options tendered by Eligible Employees and accepted for exchange and cancelled. As of April 18, 2012, there were outstanding Eligible Options to purchase 1,825,471 shares of the Company's Class A common stock and 834,759 shares of the Company's Class B common stock.

Table of Contents**ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS*****Forward-Looking Statements***

The information in this management's discussion and analysis of financial condition and results of operations contains forward-looking statements and information within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, which are subject to the "safe harbor" created by those sections. These forward-looking statements include, but are not limited to, statements concerning our strategy, future operations, future financial position, future revenues, projected costs, prospects and plans and objectives of management. The words "anticipates," "believes," "estimates," "expects," "intends," "may," "plans," "projects," "will," "would" and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. We may not actually achieve the plans, intentions or expectations disclosed in our forward-looking statements, and you should not place undue reliance on our forward-looking statements. Actual results or events could differ materially from the plans, intentions and expectations disclosed in the forward-looking statements that we make. These forward-looking statements involve risks and uncertainties that could cause our actual results to differ materially from those in the forward-looking statements, including, without limitation, the risks set forth in Part II, Item 1A, "Risk Factors" in this Quarterly Report on Form 10-Q and in our other filings with the SEC. We do not assume any obligation to update any forward-looking statements.

Overview

We are a provider of integrated, radio-frequency and mixed-signal semiconductor solutions for broadband communications applications. Our high performance radio-frequency, or RF, receiver products capture and process digital and analog broadband signals to be decoded for various applications. These products include both RF receivers and RF receiver systems-on-chip, or SoCs, which incorporate our highly integrated radio system architecture and the functionality necessary to demodulate broadband signals. Our current products enable the display of broadband video content in a wide range of electronic devices, including cable and terrestrial set top boxes, digital televisions, mobile handsets, personal computers, netbooks and in-vehicle entertainment devices.

Our net revenue has grown from approximately \$600,000 in fiscal 2006 to \$71.9 million in fiscal 2011. In 2010 and 2011 and in the three months ended March 31, 2012, our net revenue was derived from sales of global digital RF receiver products for digital set top box applications, automotive navigation displays, mobile handsets, cable modems and gateways and digital televisions. Our ability to achieve revenue growth in the future will depend, among other factors, on our ability to further penetrate existing markets; our ability to expand our target addressable markets by developing new and innovative products; and our ability to obtain design wins with device manufacturers, in particular manufacturers of set top boxes and cable modems and gateways for the cable industry.

Substantially all of our sales have been to customers outside the United States. Sales in Asia accounted for 90%, 97% and 99% of net revenue in the years ended December 31, 2011, 2010 and 2009, respectively, and 95% and 87% of net revenue in the three months ended March 31, 2012 and 2011, respectively. The majority of these sales in Asia are through distributors. Although we actually sell the products to, and are paid by, the distributors, we refer to end customers as our customers. Because many of our end customers or their ODM manufacturers are located in Asia, we anticipate that a majority of our revenue will continue to come from sales to that region. Although a large percentage of our sales are made in Asia, we believe that a significant number of the systems designed by these customers and incorporating our semiconductor products are then sold outside Asia. For example, we believe revenue generated from sales of our digital terrestrial set top box products during the three months ended March 31, 2012 and the years ended December 31, 2011 and 2010 related principally to sales to Asian set top box manufacturers delivering products into European markets. Similarly, revenue generated from sales of our cable modem products during the three months ended March 31, 2012 and the years ended December 31, 2011 and 2010 related principally to sales to Asian ODMs and contract manufacturers delivering products into European and North American markets. To date, all of our sales have been denominated in United States dollars.

A significant portion of our net revenue has historically been generated by a limited number of customers. In the three months ended March 31, 2012, one of our customers accounted for 22% of our net revenue, and our ten largest customers collectively accounted for 62% of our net revenue. For the three months ended March 31, 2011, one customer accounted for 22% of our net revenue, and our ten largest customers accounted for 66% of our net revenue. For certain customers, we sell multiple products into disparate end user applications such as modules for televisions, in-vehicle or automotive applications and mobile handsets.

Our business depends on winning competitive bid selection processes, known as design wins, to develop semiconductors for use in our customers' products. These selection processes are typically lengthy, and as a result, our sales cycles will vary based on the specific market served, whether the design-win is with an existing or a new customer and whether our product being designed in our customer's device is a first generation or subsequent generation product. Our customers' products can be complex and, if our

Table of Contents

engagement results in a design win, can require significant time to define, design and result in volume production. Because the sales cycle for our products is long, we can incur significant design and development expenditures in circumstances where we do not ultimately recognize any revenue. We do not have any long-term purchase commitments with any of our customers, all of whom purchase our products on a purchase order basis. Once one of our products is incorporated into a customer's design, however, we believe that our product is likely to remain a component of the customer's product for its life cycle because of the time and expense associated with redesigning the product or substituting an alternative chip. Product life cycles in our target markets will vary by application. For example, in the digital set top box market a design-in can have a product life cycle of 18 to 24 months. In the automotive sector, the product life cycle of a design-in can range from 36 to 60 months. In the mobile television sector, the product life cycle can range from 12 to 36 months.

Critical Accounting Policies and Estimates

Management's discussion and analysis of our financial condition and results of operations are based upon our financial statements which are prepared in accordance with accounting principles that are generally accepted in the United States. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets and liabilities, related disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. We continually evaluate our estimates and judgments, the most critical of which are those related to revenue recognition, allowance for doubtful accounts, inventory valuation, income taxes and stock-based compensation. We base our estimates and judgments on historical experience and other factors that we believe to be reasonable under the circumstances. Materially different results can occur as circumstances change and additional information becomes known.

There were no significant changes during the quarter ended March 31, 2012 to the items that we disclosed as our critical accounting policies and estimates in Note 1 to our consolidated financial statements for the year ended December 31, 2011 contained in the Annual Report on Form 10-K filed with the SEC on March 14, 2012.

Results of Operations

The following describes the line items set forth in our condensed consolidated statements of operations.

Net Revenue. Net revenue is generated from sales of our RF receivers and RF receiver SoCs. A majority of our end customers purchase products indirectly from us through distributors. Although we actually sell the products to, and are paid by, the distributors, we refer to these end customers as our customers.

Cost of Net Revenue. Cost of net revenue includes the cost of finished silicon wafers processed by third-party foundries; costs associated with our outsourced packaging and assembly, test and shipping; costs of personnel, including stock-based compensation, and equipment associated with manufacturing support, logistics and quality assurance; amortization of certain production mask costs; cost of production load boards and sockets; and an allocated portion of our occupancy costs.

Research and Development. Research and development expense includes personnel-related expenses, including stock-based compensation, new product engineering mask costs, prototype integrated circuit packaging and test costs, computer-aided design software license costs, intellectual property license costs, reference design development costs, development testing and evaluation costs, depreciation expense and allocated occupancy costs. Research and development activities include the design of new products, refinement of existing products and design of test methodologies to ensure compliance with required specifications. All research and development costs are expensed as incurred.

Selling, General and Administrative. Selling, general and administrative expense includes personnel-related expenses, including stock-based compensation, distributor and other third-party sales commissions, field application engineering support, travel costs, professional and consulting fees, legal fees, depreciation expense and allocated occupancy costs.

Interest Income. Interest income consists of interest earned on our cash, cash equivalents and investment balances.

Interest Expense. Interest expense consists primarily of imputed interest on i) the purchase of licensed technology and ii) property and equipment capital leases.

Other Income (Expense). Other income (expense) generally consists of income (expense) generated from minor non-operating transactions.

Edgar Filing: MAXLINEAR INC - Form 10-Q

Provision for Income Taxes. We make certain estimates and judgments in determining income tax expense for financial statement purposes. These estimates and judgments occur in the calculation of certain tax assets and liabilities, which arise from differences in the timing of recognition of revenue and expenses for tax and financial statement purposes and the realizability of assets in future years.

Table of Contents**Comparison of the Three Months Ended March 31, 2012 and 2011**

The following table presents a comparison of each line item in the condensed consolidated statements of operations as a percentage of revenue for the three months ended March 31, 2012 and 2011:

	Three Months Ended March 31,	
	2012	2011
Net revenue	100%	100%
Cost of net revenue	40	36
Gross profit	60	64
Operating expenses:		
Research and development	58	46
Selling, general and administrative	34	29
Total operating expenses	92	75
Income (loss) from operations	(32)	(11)
Interest income		
Interest expense		
Other expense, net		
Income (loss) before income taxes	(32)	(11)
Provision (benefit) for income taxes		(4)
Net income (loss)	(32)%	(7)%

Net Revenue

	Three Months Ended March 31,		% Change
	2012	2011	
Net revenue	\$ 20,683	\$ 16,908	22%

Our net revenue was \$20.7 million in the three months ended March 31, 2012, as compared to \$16.9 million in the three months ended March 31, 2011, an increase of \$3.8 million or 22%. The increase in net revenue in the three months ended March 31, 2012, as compared to the three months ended March 31, 2011, was primarily due to an increase in sales revenue from cable products, offset by a decrease in revenue derived from consumer terrestrial TV, automotive, and mobile handset applications. We expect sales of our cable products to account for a substantial portion of our revenue growth, if any, in the remainder of 2012. The demand for our terrestrial and cable TV products will depend on several factors, including the rate of worldwide transition from analog-to-digital terrestrial and cable TV broadcast, and the growth in demand, if any, for high speed broadband connectivity and multimedia content and services.

Table of Contents*Cost of Net Revenue and Gross Profit*

	Three Months Ended March 31,		% Change
	2012	2011	
	(dollars in thousands)		
Cost of net revenue	\$ 8,267	\$ 6,077	36%
% of net revenue	40%	36%	
Gross profit	\$ 12,416	\$ 10,831	15%
% of net revenue	60%	64%	

Cost of net revenue increased by \$2.2 million for the three months ended March 31, 2012 compared to the three months ended March 31, 2011. Gross profit increased by \$1.6 million for the three months ended March 31, 2012 compared to the three months ended March 31, 2011, reflecting a decrease in gross profit as a percentage of revenue from 64% to 60%. The decrease in the gross profit percentage of net revenue was primarily due to decreases in average selling prices of several products whose average manufacturing costs decreased proportionally to a lesser extent than their average selling prices. Also negatively influencing gross margin were increases in the mix of lower margin products within our terrestrial product shipments, specifically significant declines in our higher margin mobile handset, automotive, and digital TV applications. We currently expect that gross profit percentage will fluctuate in the future, from quarter-to-quarter, based on changes in product mix, average selling prices, and average manufacturing costs.

Research and Development

	Three Months Ended March 31,		% Change
	2012	2011	
	(dollars in thousands)		
Research and development	\$ 11,908	\$ 7,866	51%
% of net revenue	58%	46%	

Research and development expense for the three months ended March 31, 2012 was \$11.9 million, an increase of \$4.0 million, or 51%, from the three months ended March 31, 2011. This year-over-year increase was primarily attributable to an increase in the number of new RF receiver SoC product development and existing product enhancement initiatives. Salary and benefits expense (including stock-based compensation) increased \$1.9 million for the three months ended March 31, 2012. The increase in salary and benefits is primarily due to an increase in our average full-time-equivalent headcount compared to the same three month period of the prior year and related higher bonus accruals, seasonal step-ups of payroll related items, and increases in employee healthcare costs. Also contributing to the increase compared to prior period were additional expenses for our first 40 nanometer product engineering mask set, computer-aided design and related software license costs, and other headcount driven costs. Entering into new technology licenses is a strategic decision made by management on a case by case basis. We cannot predict whether we will acquire more of these types of licenses or the magnitude or timing of any such license acquisitions. Absent these types of licensing events, we expect our research and development expenses to increase in absolute dollars as we continue to focus on expanding our product portfolio and enhancing existing products.

Table of Contents*Selling, General and Administrative*

	Three Months Ended March 31,		% Change
	2012	2011	
	(dollars in thousands)		
Selling, general and administrative	\$ 6,959	\$ 4,832	44%
% of net revenue	34%	29%	

Selling, general and administrative expense for the three months ended March 31, 2012 was \$7.0 million, an increase of \$2.1 million, or 44%, from the three months ended March 31, 2011. This year-over-year increase was primarily attributable to increase in overhead costs associated with the need for larger scale operations to support the increase in demand for our products, and increased expenses associated with regulatory compliance initiatives, including compliance with the Sarbanes-Oxley Act. Also significantly contributing to the increases were approximately \$1.1 million of incremental legal expenses related to a previously disclosed export compliance matter. We expect selling, general and administrative expenses to increase in absolute dollars in the future as we expand our sales and marketing organization to enable expansion into existing and new markets, as we continue to build our international administrative infrastructure and as a result of the ongoing export compliance review.

Interest and Other Income (Expense)

	Three Months Ended March 31,	
	2012	2011
Interest income	65	93
Interest expense	(19)	(4)
Other expense, net	(96)	(51)

Interest income decreased in the three months ended March 31, 2012 compared to the three months ended March 31, 2011 due to lower investment balances, principally due to a change in the composition of cash equivalents and investments.

Interest expense increased in the three months ended March 31, 2012 compared to the three months ended March 31, 2011 related to an accrued technology license agreement with extended payment terms.

Other expense, net increased in the three months ended March 31, 2012 compared to the three months ended March 31, 2011 due to increased losses on foreign currency transactions and investment management fees.

Provision for Income Taxes

	Three Months Ended March 31,	
	2012	2011
Provision for income taxes	61	(681)

The provision for income taxes for the three months ended March 31, 2012 was \$61 or approximately (0.9)% of pre-tax loss compared to a benefit for income taxes of \$681 for the three months ended March 31, 2011. The decrease in the effective tax rate in the current year is primarily due to the establishment of a valuation allowance on the net federal deferred tax asset. In the third quarter of 2011, we evaluated our net deferred income taxes, which included an assessment of the cumulative income or loss over the prior three-year period and future periods, to determine if a valuation allowance was required. After considering our recent history of losses and management's expectations of additional near-term losses, we recorded a valuation allowance on our net federal deferred tax assets. In addition, we continue to maintain a valuation allowance to offset the California deferred tax assets as realization of such assets does not meet the more-likely-than-not threshold required under accounting guidelines. We will continue to assess the need for a valuation allowance on the deferred tax assets by evaluating positive and negative evidence that may exist.

Subsequent Events

In April 2012, we commenced an offer to exchange (the Exchange Offer) certain outstanding options to purchase shares of our Class A common stock and shares of our Class B common stock, whether vested or unvested, that (i) have an exercise price per share greater than \$5.00 (or if higher, the closing sales price of the Company's Class A common stock on the expiration date of this offer), (ii) were granted under either the MaxLinear 2010 Equity Incentive Plan or the MaxLinear 2004 Stock Plan, and (iii) are held by Eligible Employees for restricted stock units. The Exchange Offer provides that, if an eligible employee participates and surrenders his or her Eligible Option(s), he or she will receive a new unvested RSU award for a number of shares that is equal to fifty percent (50%) of the aggregate number of shares underlying the eligible options that were surrendered by the eligible employee.

Table of Contents

The actual number of shares of Class A common stock subject to the RSUs to be issued in the Exchange Offer will depend on the number of shares of Class A common stock and Class B common stock subject to the unexercised options tendered by Eligible Employees and accepted for exchange and cancelled. As of April 18, 2012, there were outstanding Eligible Options to purchase 1,825,471 shares of our Class A common stock and 834,759 shares of our Class B common stock.

Liquidity and Capital Resources

As of March 31, 2012, we had cash and cash equivalents of \$23.8 million, investments of \$59.6 million, and net accounts receivable of \$11.1 million.

Following is a summary of our working capital and cash and cash equivalents as of March 31, 2012 and December 31, 2011:

	March 31, 2012	December 31, 2011
	(in thousands)	
Working capital	\$ 75,813	\$ 76,585
Cash and cash equivalents	23,796	28,026

Cash Flows from Operating Activities

Net cash used in operating activities was \$1.1 million for the three months ended March 31, 2012. Net cash used in operating activities primarily consisted of a net loss of \$6.6 million, partially offset by \$2.1 million in changes in operating assets and liabilities and \$3.4 million in non-cash operating expenses. Non-cash items included in net loss for the three months ended March 31, 2012 included depreciation and amortization expense of \$0.9 million, amortization of investment premiums, net of \$0.2 million and stock-based compensation of \$2.2 million. Net cash used in operating activities was \$2.1 million for the three months ended March 31, 2011. Net cash used in operating activities primarily consisted of a net loss of \$1.1 million plus \$1.9 million in non-cash operating expenses less \$2.9 million in net cash used by changes in operating assets and liabilities. Non-cash items included in net loss for the three months ended March 31, 2011 included depreciation and amortization expense of \$0.7 million, amortization of investment premiums, net of \$0.3 million, stock-based compensation of \$1.6 million and an increase in deferred income taxes of \$0.7 million.

Cash Flows from Investing Activities

Net cash used in investing activities was \$3.2 million for the three months ended March 31, 2012. Net cash used in investing activities consisted of \$32.4 million in purchases of securities, \$0.8 million in purchases of property and equipment and \$0.2 million in purchases of intangible assets, offset by \$30.3 million in maturities of securities. Net cash provided by investing activities was \$13.3 million for the three months ended March 31, 2011. Net cash used in investing activities consisted of \$28.6 million in purchases of securities and \$0.7 million in purchases of property and equipment, offset by \$42.6 million in maturities of securities.

Cash Flows from Financing Activities

Net cash provided by financing activities was \$0.03 million for the three months ended March 31, 2012. Net cash provided by financing activities consisted primarily of net proceeds from issuance of common stock of \$0.06 million offset by payments on capital leases of \$0.03 million. Net cash provided by financing activities was \$0.4 million for the three months ended March 31, 2011. Net cash provided by financing activities consisted primarily of proceeds from issuance of common stock of \$0.4 million.

We believe that our \$23.8 million of cash and cash equivalents and \$59.6 million in investments at March 31, 2012, and expected cash flow from operations will be sufficient to fund our projected operating requirements for at least the next twelve months. However, we may need to raise additional capital or incur additional indebtedness to continue to fund our operations in the future. Our future capital requirements will depend on many factors, including our rate of revenue growth, the expansion of our engineering, sales and marketing activities, the timing and extent of our expansion into new territories, the timing of introductions of new products and enhancements to existing products, the continuing market acceptance of our products and potential material investments in, or acquisitions of, complementary businesses, services or technologies. Additional funds may not be available on terms favorable to us or at all. If we are unable to raise additional funds when needed, we may not be able to sustain our operations.

Warranties and Indemnifications

Edgar Filing: MAXLINEAR INC - Form 10-Q

In connection with the sale of products in the ordinary course of business, we often make representations affirming, among other things, that our products do not infringe on the intellectual property rights of others, and agree to indemnify customers against third-

Table of Contents

party claims for such infringement. Further, our certificate of incorporation and bylaws require us to indemnify our officers and directors against any action that may arise out of their services in that capacity, and we have also entered into indemnification agreements with respect to all of our directors and certain controlling persons. As of March 31, 2012, we incurred expenses of \$0.2 million under such provisions related to a previously disclosed export compliance matter.

Off-Balance Sheet Arrangements

As part of our ongoing business, we do not participate in transactions that generate relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, or SPEs, which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes. As of March 31, 2012, we were not involved in any unconsolidated SPE transactions.

Contractual Obligations

There have been no material changes, outside of the ordinary course of business, in our outstanding contractual obligations from those disclosed within Management's Discussion and Analysis of Financial Condition and Results of Operations, as contained in our Annual Report on Form 10-K filed by the Company with the SEC on March 14, 2012.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK

Foreign Currency Risk

To date, our international customer and vendor agreements have been denominated almost exclusively in United States dollars. Accordingly, we have limited exposure to foreign currency exchange rates and do not enter into foreign currency hedging transactions. The functional currency of certain foreign subsidiaries is the local currency. Accordingly, the effects of exchange rate fluctuations on the net assets of these foreign subsidiaries' operations are accounted for as translation gains or losses in accumulated other comprehensive income within stockholders' equity. We do not believe that a change of 10% in such foreign currency exchange rates would have a material impact on our financial position or results of operations.

Interest Rate Risk

We had cash of \$23.8 million at March 31, 2012, which was held for working capital purposes. We do not enter into investments for trading or speculative purposes. We do not believe that we have any material exposure to changes in the fair value of these investments as a result of changes in interest rates due to their short-term nature. Declines in interest rates, however, will reduce future investment income.

Investments Risk

Our investments, consisting of U.S. Treasury and agency obligations and corporate notes and bonds, are stated at cost, adjusted for amortization of premiums and discounts to maturity. In the event that there are differences between fair value and cost in any of our available-for-sale securities, unrealized gains and losses on these investments are reported as a separate component of accumulated other comprehensive income (loss).

Investments in fixed rate interest earning instruments carry a degree of interest rate risk. Fixed rate securities may have their market value adversely impacted due to rising interest rates. Due in part to these factors, our future investment income may fall short of expectations due to changes in interest rates.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure and Procedures

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our periodic reports filed with the SEC is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC and that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as

Edgar Filing: MAXLINEAR INC - Form 10-Q

appropriate, to allow for timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and no evaluation of controls and procedures can provide absolute assurance that all control issues and instances of fraud, if any, within a company have been detected. Management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Table of Contents

As required by Rule 13a-15(b) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, prior to filing this Quarterly Report, we carried out an evaluation, under the supervision and with the participation of our management, including our principal executive officer, principal financial officer and principal accounting officer, of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act) as of the end of the period covered by this Quarterly Report. Based on their evaluation, our principal executive officer, principal financial officer and principal accounting officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this Quarterly Report.

Changes in Internal Control over Financial Reporting

An evaluation was performed under the supervision and with the participation of our management, including our principal executive officer, principal financial officer and principal accounting officer, to determine whether any change in our internal control over financial reporting occurred during the fiscal quarter ended March 31, 2012 that materially affected, or is reasonably likely to materially affect, our internal control over financial reporting. We did not identify any change in our internal control over financial reporting that occurred during the fiscal quarter ended March 31, 2012 that materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Table of Contents**PART II OTHER INFORMATION****ITEM 1. LEGAL PROCEEDINGS**

From time to time, we are subject to threats of litigation or actual litigation in the ordinary course of business, some of which may be material. We believe that there are no currently pending matters that, if determined adversely to us, would have a material effect on our business or that would not be covered by our existing liability insurance maintained by us.

ITEM 1A. RISK FACTORS

This Quarterly Report on Form 10-Q, or Form 10-Q, including any information incorporated by reference herein, contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, referred to as the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, referred to as the Exchange Act. In some cases, you can identify forward-looking statements by terms such as may, will, should, expect, plan, intend, forecast, anticipate, believe, estimate, predict, potential, continue or the negative of these terms or other comparable terminology. The forward-looking statements contained in this Form 10-Q involve known and unknown risks, uncertainties and situations that may cause our or our industry's actual results, level of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by these statements. These factors include those listed below in this Item 1A and those discussed elsewhere in this Form 10-Q. We encourage investors to review these factors carefully. We may from time to time make additional written and oral forward-looking statements, including statements contained in our filings with the SEC. However, we do not undertake to update any forward-looking statement that may be made from time to time by or on behalf of us.

Before you invest in our securities, you should be aware that our business faces numerous financial and market risks, including those described below, as well as general economic and business risks. The following discussion provides information concerning the material risks and uncertainties that we have identified and believe may adversely affect our business, our financial condition and our results of operations. Before you decide whether to invest in our securities, you should carefully consider these risks and uncertainties, together with all of the other information included in this Quarterly Report on Form 10-Q, the Annual Report on Form 10-K we filed on March 14, 2012, and in our other public filings.

Risks Related to Our Business

We face intense competition and expect competition to increase in the future, which could have an adverse effect on our revenue, revenue growth rate, if any, and market share.

The global semiconductor market in general, and the RF receiver market in particular, are highly competitive. We compete in different target markets to various degrees on the basis of a number of principal competitive factors, including our products' performance, features and functionality, energy efficiency, size, ease of system design, customer support, product roadmap, reputation, reliability and price, as well as on the basis of our customer support, the quality of our product roadmap and our reputation. We expect competition to increase and intensify as more and larger semiconductor companies as well as the internal resources of large, integrated original equipment manufacturers, or OEMs, enter our markets. Increased competition could result in price pressure, reduced profitability and loss of market share, any of which could materially and adversely affect our business, revenue, revenue growth rates and operating results.

As our products are integrated into a variety of stationary and mobile electronic devices, we compete with suppliers of both can tuners and traditional silicon RF receivers. Our competitors range from large, international companies offering a wide range of semiconductor products to smaller companies specializing in narrow markets and internal engineering groups within mobile device, television and STB manufacturers, some of which may be our customers. Our primary competitors include Silicon Laboratories Inc., NXP B.V., Maxim Integrated Products, Inc., RDA Microelectronics, Newport Media Inc., Broadcom Corporation, Entropic Communications, Inc. and Rafael Microelectronics, Inc. It is quite likely that competition in the markets in which we participate will increase in the future as existing competitors improve or expand their product offerings. In addition, it is quite likely that a number of other public and private companies are in the process of developing competing products for digital television and other broadband communication applications. Because our products often are building block semiconductors which provide functions that in some cases can be integrated into more complex integrated circuits, we also face competition from manufacturers of integrated circuits, some of which may be existing customers that develop their own integrated circuit products. If we cannot offer an attractive solution for applications where our competitors offer more fully integrated tuner/demodulator/video processing products, we may lose significant market share to our competitors. Certain of our competitors have fully integrated tuner/demodulator/video processing

solutions targeting high performance cable or DTV applications, and thereby potentially provide customers with smaller and cheaper solutions.

Table of Contents

Our ability to compete successfully depends on elements both within and outside of our control, including industry and general economic trends. During past periods of downturns in our industry, competition in the markets in which we operate intensified as manufacturers of semiconductors reduced prices in order to combat production overcapacity and high inventory levels. Many of our competitors have substantially greater financial and other resources with which to withstand similar adverse economic or market conditions in the future. Moreover, the competitive landscape is changing as a result of consolidation within our industry as some of our competitors have merged with or been acquired by other competitors, and other competitors have begun to collaborate with each other. These developments may materially and adversely affect our current and future target markets and our ability to compete successfully in those markets.

We depend on a limited number of customers for a substantial portion of our revenue, and the loss of, or a significant reduction in orders from, one or more of our major customers could have a material adverse effect on our revenue and operating results.

In the three months ended March 31, 2012, one customer accounted for 22% of our net revenue, and our ten largest customers collectively accounted for 62% of our net revenue. During the year ended December 31, 2011, Panasonic and Arris accounted for 14% and 11%, respectively, of our net revenue, and our ten largest customers collectively accounted for 59% of our net revenue. For the three months ended March 31, 2011, one customer accounted for 22% of our net revenue, and our ten largest customers accounted for 66% of our net revenue. Our operating results for the foreseeable future will continue to depend on sales to a relatively small number of customers and on the ability of these customers to sell products that incorporate our RF receivers or RF receiver SoCs. In the future, these customers may decide not to purchase our products at all, may purchase fewer products than they did in the past, or may defer or cancel purchases or otherwise alter their purchasing patterns. Factors that could affect our revenue from these large customers include the following:

substantially all of our sales to date have been made on a purchase order basis, which permits our customers to cancel, change or delay product purchase commitments with little or no notice to us and without penalty; and

some of our customers have sought or are seeking relationships with current or potential competitors which may affect their purchasing decisions.

In addition, delays in development could impair our relationships with our strategic customers and negatively impact sales of the products under development. Moreover, it is possible that our customers may develop their own product or adopt a competitor's solution for products that they currently buy from us. If that happens, our sales would decline and our business, financial condition and results of operations could be materially and adversely affected.

Our relationships with some customers may deter other potential customers who compete with these customers from buying our products. To attract new customers or retain existing customers, we may offer these customers favorable prices on our products. In that event, our average selling prices and gross margins would decline. The loss of a key customer, a reduction in sales to any key customer or our inability to attract new significant customers could seriously impact our revenue and materially and adversely affect our results of operations.

A significant portion of our revenue is attributable to demand for our products in markets for terrestrial set-top box and cable applications.

Prior to fiscal 2010, sales of our products to customers in the mobile electronic device market accounted for a significant portion of our revenue in prior periods; however, revenue derived from mobile electronic devices has declined since fiscal 2010 and is no longer an area of focus for the Company. For fiscal 2010, revenue directly attributable to terrestrial set-top box and cable applications accounted for approximately 39% of our net revenue. For fiscal 2011, revenue directly attributable to terrestrial set-top box and cable applications accounted for approximately 56% of our net revenue. For the three months ended March 31, 2012, revenue directly attributable to terrestrial set-top box and cable applications accounted for approximately 76% of our net revenue. We currently expect this trend to continue in the remainder of fiscal 2012. Delays in the development of, or unexpected developments in, the terrestrial set-top box and cable application markets could have an adverse effect on order activity by manufacturers in these markets and, as a result, on our business, revenue, operating results and financial condition.

We may be unable to make the substantial and productive research and development investments which are required to remain competitive in our business.

The semiconductor industry requires substantial investment in research and development in order to develop and bring to market new and enhanced technologies and products. Many of our products originated with our research and development efforts and have provided us with a significant competitive advantage. Our research and development expense was \$11.9 million in the three months ended March 31, 2012 and \$40.2 million in 2011 and \$27.7 million in 2010. In the three months ended March 31, 2012, we continued to increase our research and

development expenditures as compared to prior periods as part of our strategy of devoting focused

Table of Contents

research and development efforts on the development of innovative and sustainable product platforms. We are committed to investing in new product development internally in order to stay competitive in our markets and plan to maintain research and development and design capabilities for new solutions in advanced semiconductor process nodes such as 40nm and beyond. We do not know whether we will have sufficient resources to maintain the level of investment in research and development required to remain competitive as semiconductor process nodes continue to shrink and become increasingly complex. In addition, we cannot assure you that the technologies which are the focus of our research and development expenditures will become commercially successful.

Average selling prices of our products could decrease rapidly, which could have a material adverse effect on our revenue and gross margins.

We may experience substantial period-to-period fluctuations in future operating results due to the erosion of our average selling prices. From time to time, we have reduced the average unit price of our products due to competitive pricing pressures, new product introductions by us or our competitors, and for other reasons, and we expect that we will have to do so again in the future. If we are unable to offset any reductions in our average selling prices by increasing our sales volumes or introducing new products with higher margins, our revenue and gross margins will suffer. To support our gross margins, we must develop and introduce new products and product enhancements on a timely basis and continually reduce our and our customers' costs. Failure to do so would cause our revenue and gross margins to decline.

If we fail to develop and introduce new or enhanced products on a timely basis, our ability to attract and retain customers could be impaired and our competitive position could be harmed.

We operate in a dynamic environment characterized by rapidly changing technologies and industry standards and technological obsolescence. To compete successfully, we must design, develop, market and sell new or enhanced products that provide increasingly higher levels of performance and reliability and meet the cost expectations of our customers. The introduction of new products by our competitors, the market acceptance of products based on new or alternative technologies, or the emergence of new industry standards could render our existing or future products obsolete. Our failure to anticipate or timely develop new or enhanced products or technologies in response to technological shifts could result in decreased revenue and our competitors winning more competitive bid processes, known as "design wins." In particular, we may experience difficulties with product design, manufacturing, marketing or certification that could delay or prevent our development, introduction or marketing of new or enhanced products. If we fail to introduce new or enhanced products that meet the needs of our customers or penetrate new markets in a timely fashion, we will lose market share and our operating results will be adversely affected.

If we fail to penetrate new markets, our revenue, revenue growth rate, if any, and financial condition could be materially and adversely affected.

Currently, we sell most of our products to manufacturers of applications for digital television, cable modems and gateways and cable set-top boxes, automotive TV display, and to Chinese manufacturers of set top boxes for sale in various markets worldwide. Our future revenue growth, if any, will depend in part on our ability to expand beyond these markets with our RF receivers and RF receiver SoCs. Each of these markets presents distinct and substantial risks. If any of these markets does not develop as we currently anticipate, or if we are unable to penetrate them successfully, it could materially and adversely affect our revenue and revenue growth rate, if any.

We expect cable modems and set top boxes to represent our largest North American target market. The North American cable set top box market is dominated by only a few OEMs, including Motorola Inc., Cisco Systems, Inc., Arris Group, Inc. and Technicolor S.A. These OEMs are large, multinational corporations with substantial negotiating power relative to us. Securing design wins with any of these companies requires a substantial investment of our time and resources. Even if we succeed, additional testing and operational certifications will be required by the OEMs' customers, which include large cable television companies such as Comcast Corporation and Time Warner Cable Inc. In addition, our products will need to be compatible with other components in our customers' designs, including components produced by our competitors or potential competitors. There can be no assurance that these other companies will support or continue to support our products.

Finally, the markets for IPTV and PCTV are nascent and relatively small. We have sold limited quantities of our products into these markets and cannot predict how, or to what extent, demand for our products in these markets will develop.

If we fail to penetrate these or other new markets upon which we target our resources, our revenue and revenue growth rate, if any, likely will decrease over time and our financial condition could suffer.

Our business, revenue and revenue growth, if any, will depend in part on the timing and development of the global transition from analog to digital television, which is subject to numerous regulatory and business risks outside our control.

Table of Contents

For the three months ended March 31, 2012, sales of our RF receiver products used in digital terrestrial television applications, or DTT, including digital televisions, automotive navigation displays, PCTV, IPTV, and terrestrial set top boxes, and modems and gateways for cable represented a significant portion of our revenues. We expect a significant portion of our revenue in future periods to continue to depend on the demand for DTT applications. In contrast to the United States, where the transition from analog to digital television occurred on a national basis in June 2009, in Europe and other parts of the world, the digital transition is being phased in on a local and regional basis and is expected to occur over many years. Most countries in Western Europe are expected to convert to digital television by the end of 2012, with the transition in Eastern Europe expected to continue through 2015. As a result, our future revenue will depend in part on government mandates requiring conversion from analog to digital television and on the timing and implementation of those mandates. If the transition to digital TV standards does not take place or is substantially delayed in Europe or other international markets, our business, revenue, operating results and financial condition would be materially and adversely affected. If during the transition to digital TV standards, consumers disproportionately purchase TV s with digital or hybrid tuning capabilities, this could diminish the size of the market for our digital-to-analog converter set-top box solutions, and as result our business, revenue, operating results and financial condition would be materially and adversely affected.

We are subject to U.S. export control and economic sanctions laws relating to the sale of our products. Although we did not intend to do so, we may have violated certain of these laws in the past, and we cannot currently assess with certainty the nature and extent of fines or other penalties, if any, that U.S. governmental agencies may impose against us, our management, or other employees for these potential violations. Any fines, if materially different from our current estimates, and any other penalties that regulatory authorities may seek to impose could have a material adverse effect on our business, operating results, and financial condition.

As noted in our Current Report on Form 8-K filed on February 7, 2012, in the first quarter of 2012, we determined that we may have taken actions that could constitute facilitation (within the meaning of applicable sanctions and export control laws) of shipments of foreign produced products to Iran or taken other actions that may be in violation of U.S. export control and economic sanctions laws. Specifically, certain of our tuner products, which are foreign produced and not subject to U.S. export controls, were included in set-top converter boxes produced by set-top box manufacturers in Asia to permit conversion of digital television signals to analog signals in international markets, including Iran, using the DVB-T, or Digital Video Broadcasting Terrestrial, broadcast standard. The DVB-T standard is used in most of Europe, Asia (excluding China), Australia, and Africa as well as in parts of the Middle East, including Iran. While the underlying shipment of our tuners into Iran by foreign manufacturers of these set-top boxes may have been lawful, we may have violated applicable sanctions and export control laws without the proper U.S. Government authorization.

We initially identified these potential violations internally, rather than as a result of a third-party audit or government investigation, and upon learning of these potential violations, our audit committee promptly retained outside counsel to conduct a review of our sanctions and export control compliance. On February 7, 2012, we made voluntary initial filings with the Office of Foreign Assets Control of the United States Department of the Treasury, or OFAC, and with the Bureau of Industry and Security of the United States Department of Commerce, or BIS, notifying these regulatory agencies that we were conducting a review of export control matters and that we would submit any supplemental voluntary self-disclosures once our internal review was complete. The initial stage of the review was concluded in March 2012. Among other matters, our audit committee determined that our management team lacked sufficient familiarity with and understanding of export control and sanctions laws and their applicability to our products and services. Our audit committee concluded that our management team did not intentionally or knowingly violate applicable sanctions and export control laws.

Outside counsel is now preparing the final voluntary disclosures to be submitted to OFAC and BIS. OFAC and BIS may conclude that our actions resulted in violations that warrant the imposition of penalties that could include fines, termination of our ability to export our products, and/or referral for criminal prosecution. Penalties and potential criminal enforcement actions could be imposed against us and/or our management and certain of our employees. We cannot predict when OFAC or BIS will complete their reviews of our submissions, and resolution of these matters with the government could take substantial time and require substantial expenditure and management resources, either of which could be harmful to our business and operating results.

Any fines that OFAC or BIS may impose on us could be material to our operating results in the period in which they are imposed and could have a material adverse effect on our financial condition. The maximum civil monetary penalty for each violation is up to \$250,000 or twice the value of the transaction, whichever is greater. Based upon facts known to us to date, we recorded an expense of \$0.8 million, reflected in selling, general, and administrative expense, in the fourth quarter of 2011 for this export compliance matter, representing management s estimated exposure for fines in accordance with applicable accounting literature. Should additional facts be discovered in the future and/or should actual fines or other penalties differ from our estimates, our business, operating results, and financial condition could be materially and negatively affected. In that regard, we cannot guarantee that either OFAC or BIS will agree with our assessments of the quantity and nature of the potential violations. As a result, OFAC or BIS could seek to impose higher fines and penalties than those we have estimated to date, and we could incur significant additional legal

Table of Contents

expenses in response. As a result of increased awareness relative to U.S. export control and economic sanction laws relating to the sale of our products, we are in the process of implementing additional export control compliance management oversight and undertaking remedial measures to reduce the risk of similar events occurring in the future.

Continued adverse U.S. and international economic conditions, including factors that adversely affect consumer spending for the products that incorporate our integrated circuits, could adversely affect our revenues, margins, and operating results.

Since September 2008, the global credit markets and the financial services industry have been experiencing a period of unprecedented turmoil and upheaval characterized by the bankruptcy, failure, collapse or sale of various financial institutions and an unprecedented level of intervention from U.S. and foreign governments. Recently, the credit crisis has reemerged in Europe with threats of credit default by certain member countries of the European Union, and by substantial budgetary and fiscal constraints, including proposals for severe budget reductions in larger European Union countries such as Germany and the United Kingdom. Our products are incorporated in numerous consumer devices, and demand for our products will ultimately be driven by consumer demand for products such as televisions, automobiles, cable modems, and set top boxes. Many of these purchases are discretionary. In addition, our recent revenue growth has been attributable in large part to purchases of digital-to-analog set top converter boxes in various geographies including Europe. Partially in response to economic and political developments, Greece recently extended the date for its deadline for switching to exclusive digital television broadcasts. Similar extensions in other European countries could adversely affect our revenue and growth. These events, together with the current adverse economic conditions facing the broader economy and, in particular, the semiconductor and communications industries, have adversely affected, and may continue to adversely affect, our business, particularly to the extent that consumers decrease their discretionary spending for devices deploying our products.

We rely on a limited number of third parties to manufacture, assemble and test our products, and the failure to manage our relationships with our third-party contractors successfully could adversely affect our ability to market and sell our products.

We do not have our own manufacturing facilities. We operate an outsourced manufacturing business model that utilizes third-party foundry and assembly and test capabilities. As a result, we rely on third-party foundry wafer fabrication and assembly and test capacity, including sole sourcing for many components or products. Currently, all of our products are manufactured by UMC, Silterra Malaysia Sdn. Bhd, and SMIC, at foundries in Taiwan, Singapore, Malaysia, and China. We also use third-party contractors for all of our assembly and test operations.

Relying on third party manufacturing, assembly and testing presents significant risks to us, including the following:

failure by us, our customers, or their end customers to qualify a selected supplier;

capacity shortages during periods of high demand;

reduced control over delivery schedules and quality;

shortages of materials;

misappropriation of our intellectual property;

limited warranties on wafers or products supplied to us; and

potential increases in prices.

The ability and willingness of our third-party contractors to perform is largely outside our control. If one or more of our contract manufacturers or other outsourcers fails to perform its obligations in a timely manner or at satisfactory quality levels, our ability to bring products to market and our reputation could suffer. For example, in the event that manufacturing capacity is reduced or eliminated at one or more facilities,

Edgar Filing: MAXLINEAR INC - Form 10-Q

including as a response to the recent worldwide decline in the semiconductor industry, manufacturing could be disrupted, we could have difficulties fulfilling our customer orders and our net revenue could decline. In addition, if these third parties fail to deliver quality products and components on time and at reasonable prices, we could have difficulties fulfilling our customer orders, our net revenue could decline and our business, financial condition and results of operations would be adversely affected.

Additionally, our manufacturing capacity may be similarly reduced or eliminated at one or more facilities due to the fact that our fabrication and assembly and test contractors are all located in the Pacific Rim region, principally in Taiwan, Singapore and Malaysia. The risk of earthquakes in these geographies is significant due to the proximity of major earthquake fault lines, and Taiwan in particular is also subject to typhoons and other Pacific storms. Earthquakes, fire, flooding, or other natural disasters in Taiwan or the Pacific Rim region, or political unrest, war, labor strikes, work stoppages or public health crises, such as outbreaks of H1N1 flu, in countries where our contractors facilities are located could result in the disruption of our foundry, assembly or test capacity. Any disruption resulting from these events could cause significant delays in shipments of our products until we are able to shift our manufacturing, assembly or test from the affected contractor to another third-party vendor. There can be no assurance that alternative capacity could be obtained on favorable terms, if at all.

Table of Contents

We do not have any long-term supply contracts with our contract manufacturers or suppliers, and any disruption in our supply of products or materials could have a material adverse effect on our business, revenue and operating results.

We currently do not have long-term supply contracts with any of our third-party vendors, including UMC, Silterra and SMIC. We make substantially all of our purchases on a purchase order basis, and neither UMC nor our other contract manufacturers are required to supply us products for any specific period or in any specific quantity. Foundry capacity may not be available when we need it or at reasonable prices. Availability of foundry capacity has in the past been reduced from time to time due to strong demand. Foundries can allocate capacity to the production of other companies' products and reduce deliveries to us on short notice. It is possible that foundry customers that are larger and better financed than we are, or that have long-term agreements with our foundry, may induce our foundry to reallocate capacity to them. This reallocation could impair our ability to secure the supply of components that we need. We expect that it would take approximately nine to twelve months to transition performance of our foundry or assembly services to new providers. Such a transition would likely require a qualification process by our customers or their end customers. We generally place orders for products with some of our suppliers approximately four to five months prior to the anticipated delivery date, with order volumes based on our forecasts of demand from our customers. Accordingly, if we inaccurately forecast demand for our products, we may be unable to obtain adequate and cost-effective foundry or assembly capacity from our third-party contractors to meet our customers' delivery requirements, or we may accumulate excess inventories. On occasion, we have been unable to adequately respond to unexpected increases in customer purchase orders and therefore were unable to benefit from this incremental demand. None of our third-party contractors has provided any assurance to us that adequate capacity will be available to us within the time required to meet additional demand for our products.

To address capacity considerations, we are in the process of qualifying additional semiconductor fabricators. Qualification will not occur if we identify a defect in a fabricator's manufacturing process or if our customers choose not to invest the time and expense required to qualify the proposed fabricator. If full qualification of a fabricator does not occur, we may not be able to sell all of the materials produced by this fabricator or to fulfill demand for our products, which would adversely affect our business, revenue and operating results. In addition, the resulting write-off of unusable inventories would have an adverse effect on our operating results.

Due to our limited operating history, we may have difficulty accurately predicting our future revenue and appropriately budgeting our expenses.

We have only a limited operating history from which to predict future revenue. This limited operating experience, combined with the rapidly evolving nature of the markets in which we sell our products, substantial uncertainty concerning how these markets may develop and other factors beyond our control, reduces our ability to accurately forecast quarterly or annual revenue. We are currently expanding our staffing and increasing our expense levels in anticipation of future revenue growth. If our revenue does not increase as anticipated, we could incur significant losses due to our higher expense levels if we are not able to decrease our expenses in a timely manner to offset any shortfall in future revenue.

We may not sustain our growth rate, and we may not be able to manage future growth effectively.

We have experienced significant growth in a short period of time. Our net revenue increased from approximately \$51.4 million in 2009 to approximately \$68.7 million in 2010 and approximately \$71.9 million in 2011. We may not achieve similar growth rates in future periods. You should not rely on our operating results for any prior quarterly or annual periods as an indication of our future operating performance. If we are unable to maintain adequate revenue growth, our financial results could suffer and our stock price could decline.

To manage our growth successfully and handle the responsibilities of being a public company, we believe we must effectively, among other things:

recruit, hire, train and manage additional qualified engineers for our research and development activities, especially in the positions of design engineering, product and test engineering and applications engineering;

add sales personnel and expand customer engineering support offices;

implement and improve our administrative, financial and operational systems, procedures and controls; and

Edgar Filing: MAXLINEAR INC - Form 10-Q

enhance our information technology support for enterprise resource planning and design engineering by adapting and expanding our systems and tool capabilities, and properly training new hires as to their use.

Table of Contents

If we are unable to manage our growth effectively, we may not be able to take advantage of market opportunities or develop new products and we may fail to satisfy customer requirements, maintain product quality, execute our business plan or respond to competitive pressures.

Our customers require our products and our third-party contractors to undergo a lengthy and expensive qualification process which does not assure product sales.

Prior to purchasing our products, our customers require that both our products and our third-party contractors undergo extensive qualification processes, which involve testing of the products in the customer's system and rigorous reliability testing. This qualification process may continue for six months or more. However, qualification of a product by a customer does not assure any sales of the product to that customer. Even after successful qualification and sales of a product to a customer, a subsequent revision to the RF receiver or RF receiver SoC, changes in our customer's manufacturing process or our selection of a new supplier may require a new qualification process, which may result in delays and in us holding excess or obsolete inventory. After our products are qualified, it can take six months or more before the customer commences volume production of components or devices that incorporate our products. Despite these uncertainties, we devote substantial resources, including design, engineering, sales, marketing and management efforts, to qualifying our products with customers in anticipation of sales. If we are unsuccessful or delayed in qualifying any of our products with a customer, sales of this product to the customer may be precluded or delayed, which may impede our growth and cause our business to suffer.

We are subject to risks associated with our distributors' product inventories and product sell-through. Should any of our distributors cease or be forced to stop distributing our products, our business would suffer.

We currently sell a majority of our products to customers through our distributors, who maintain their own inventories of our products. Sales to distributors accounted for 49% of our net revenue in the three months ended March 31, 2012. If our distributors are unable to sell an adequate amount of their inventories of our products in a given quarter to manufacturers and end users or if they decide to decrease their inventories of our products for any reason, our sales to these distributors and our revenue may decline. In addition, if some distributors decide to purchase more of our products than are required to satisfy end customer demand in any particular quarter, inventories at these distributors would grow in that quarter. These distributors likely would reduce future orders until inventory levels realign with end customer demand, which could adversely affect our product revenue in a subsequent quarter.

Our reserve estimates with respect to the products stocked by our distributors are based principally on reports provided to us by our distributors, typically on a weekly basis. To the extent that this resale and channel inventory data is inaccurate or not received in a timely manner, we may not be able to make reserve estimates for future periods accurately or at all.

We are subject to order and shipment uncertainties, and differences between our estimates of customer demand and product mix and our actual results could negatively affect our inventory levels, sales and operating results.

Our revenue is generated on the basis of purchase orders with our customers rather than long-term purchase commitments. In addition, our customers can cancel purchase orders or defer the shipments of our products under certain circumstances. Our products are manufactured using a silicon foundry according to our estimates of customer demand, which requires us to make separate demand forecast assumptions for every customer, each of which may introduce significant variability into our aggregate estimate. We have limited visibility into future customer demand and the product mix that our customers will require, which could adversely affect our revenue forecasts and operating margins. Moreover, because our target markets are relatively new, many of our customers have difficulty accurately forecasting their product requirements and estimating the timing of their new product introductions, which ultimately affects their demand for our products. Historically, because of this limited visibility, actual results have been different from our forecasts of customer demand. Some of these differences have been material, leading to excess inventory or product shortages and revenue and margin forecasts above those we were actually able to achieve. These differences may occur in the future, and the adverse impact of these differences between forecasts and actual results could grow if we are successful in selling more products to some customers. In addition, the rapid pace of innovation in our industry could render significant portions of our inventory obsolete. Excess or obsolete inventory levels could result in unexpected expenses or increases in our reserves that could adversely affect our business, operating results and financial condition. Conversely, if we were to underestimate customer demand or if sufficient manufacturing capacity were unavailable, we could forego revenue opportunities, potentially lose market share and damage our customer relationships. In addition, any significant future cancellations or deferrals of product orders or the return of previously sold products due to manufacturing defects could materially and adversely impact our profit margins, increase our write-offs due to product obsolescence and restrict our ability to fund our operations.

Table of Contents

Winning business is subject to lengthy competitive selection processes that require us to incur significant expenditures. Even if we begin a product design, a customer may decide to cancel or change its product plans, which could cause us to generate no revenue from a product and adversely affect our results of operations.

We are focused on securing design wins to develop RF receivers and RF receiver SoCs for use in our customers' products. These selection processes typically are lengthy and can require us to incur significant design and development expenditures and dedicate scarce engineering resources in pursuit of a single customer opportunity. We may not win the competitive selection process and may never generate any revenue despite incurring significant design and development expenditures. These risks are exacerbated by the fact that some of our customers' products likely will have short life cycles. Failure to obtain a design win could prevent us from offering an entire generation of a product, even though this has not occurred to date. This could cause us to lose revenue and require us to write off obsolete inventory, and could weaken our position in future competitive selection processes.

After securing a design win, we may experience delays in generating revenue from our products as a result of the lengthy development cycle typically required. Our customers generally take a considerable amount of time to evaluate our products. The typical time from early engagement by our sales force to actual product introduction runs from nine to twelve months for the consumer market, to as much as 12 to 36 months for the automotive TV display market. The delays inherent in these lengthy sales cycles increase the risk that a customer will decide to cancel, curtail, reduce or delay its product plans, causing us to lose anticipated sales. In addition, any delay or cancellation of a customer's plans could materially and adversely affect our financial results, as we may have incurred significant expense and generated no revenue. Finally, our customers' failure to successfully market and sell their products could reduce demand for our products and materially and adversely affect our business, financial condition and results of operations. If we were unable to generate revenue after incurring substantial expenses to develop any of our products, our business would suffer.

Our operating results are subject to substantial quarterly and annual fluctuations and may fluctuate significantly due to a number of factors that could adversely affect our business and our stock price.

Our revenue and operating results have fluctuated in the past and are likely to fluctuate in the future. These fluctuations may occur on a quarterly and on an annual basis and are due to a number of factors, many of which are beyond our control. These factors include, among others:

changes in end-user demand for the products manufactured and sold by our customers;

the receipt, reduction or cancellation of significant orders by customers;

fluctuations in the levels of component inventories held by our customers;

the gain or loss of significant customers;

market acceptance of our products and our customers' products;

our ability to develop, introduce and market new products and technologies on a timely basis;

the timing and extent of product development costs;

new product announcements and introductions by us or our competitors;

Edgar Filing: MAXLINEAR INC - Form 10-Q

incurrence of research and development and related new product expenditures;

seasonality or cyclical fluctuations in our markets;

currency fluctuations;

fluctuations in IC manufacturing yields;

significant warranty claims, including those not covered by our suppliers;

changes in our product mix or customer mix;

intellectual property disputes;

loss of key personnel or the shortage of available skilled workers; and

the effects of competitive pricing pressures, including decreases in average selling prices of our products.

Table of Contents

The foregoing factors are difficult to forecast, and these, as well as other factors, could materially adversely affect our quarterly or annual operating results. We typically are required to incur substantial development costs in advance of a prospective sale with no certainty that we will ever recover these costs. A substantial amount of time may pass between a design win and the generation of revenue related to the expenses previously incurred, which can potentially cause our operating results to fluctuate significantly from period to period. In addition, a significant amount of our operating expenses are relatively fixed in nature due to our significant sales, research and development costs. Any failure to adjust spending quickly enough to compensate for a revenue shortfall could magnify its adverse impact on our results of operations.

Our business would be adversely affected by the departure of existing members of our senior management team.

Our success depends, in large part, on the continued contributions of our senior management team, in particular, the services of Kishore Seendripu, Ph.D., our Chairman, President and Chief Executive Officer, Curtis Ling, Ph.D., our Chief Technical Officer and a Director, and Madhukar Reddy, Ph.D., our Vice President, IC and RF Systems Engineering. None of our senior management team is bound by written employment contracts to remain with us for a specified period. In addition, we have not entered into non-compete agreements with members of our senior management team. The loss of any member of our senior management team could harm our ability to implement our business strategy and respond to the rapidly changing market conditions in which we operate.

If we are unable to attract, train and retain qualified personnel, especially our design and technical personnel, we may not be able to execute our business strategy effectively.

Our future success depends on our ability to retain, attract and motivate qualified personnel, including our management, sales and marketing and finance, and especially our design and technical personnel. We do not know whether we will be able to retain all of these personnel as we continue to pursue our business strategy. Historically, we have encountered difficulties in hiring and retaining qualified engineers because there is a limited pool of engineers with the expertise required in our field. Competition for these personnel is intense in the semiconductor industry. As the source of our technological and product innovations, our design and technical personnel represent a significant asset. The loss of the services of one or more of our key employees, especially our key design and technical personnel, or our inability to retain, attract and motivate qualified design and technical personnel, could have a material adverse effect on our business, financial condition and results of operations.

The complexity of our products could result in unforeseen delays or expenses caused by undetected defects or bugs, which could reduce the market acceptance of our new products, damage our reputation with current or prospective customers and adversely affect our operating costs.

Highly complex products like our RF receivers and RF receiver SoCs may contain defects and bugs when they are first introduced or as new versions are released. Due to our limited operating history, defects and bugs that may be contained in our products may not yet have manifested. We have in the past experienced, and may in the future experience, defects and bugs. If any of our products contains defects or bugs, or has reliability, quality or compatibility problems, we may not be able to successfully correct these problems. Consequently, our reputation may be damaged and customers may be reluctant to buy our products, which could materially and adversely affect our ability to retain existing customers and attract new customers, and our financial results. In addition, these defects or bugs could interrupt or delay sales to our customers. If any of these problems are not found until after we have commenced commercial production of a new product, we may be required to incur additional development costs and product recall, repair or replacement costs, and our operating costs could be adversely affected. These problems may also result in warranty or product liability claims against us by our customers or others that may require us to make significant expenditures to defend these claims or pay damage awards. In the event of a warranty claim, we may also incur costs if we compensate the affected customer. We maintain product liability insurance, but this insurance is limited in amount and subject to significant deductibles. There is no guarantee that our insurance will be available or adequate to protect against all claims. We also may incur costs and expenses relating to a recall of one of our customers' products containing one of our devices. The process of identifying a recalled product in devices that have been widely distributed may be lengthy and require significant resources, and we may incur significant replacement costs, contract damage claims from our customers and reputational harm. Costs or payments made in connection with warranty and product liability claims and product recalls could materially affect our financial condition and results of operations.

We may face claims of intellectual property infringement, which could be time-consuming, costly to defend or settle and result in the loss of significant rights.

The semiconductor industry is characterized by companies that hold large numbers of patents and other intellectual property rights and that vigorously pursue, protect and enforce intellectual property rights. From time to time, third parties may assert against us and our customers and distributors their patent and other intellectual property rights to technologies that are important to our business.

Claims that our products, processes or technology infringe third-party intellectual property rights, regardless of their merit or resolution, could be costly to defend or settle and could divert the efforts and attention of our management and technical personnel. In

Table of Contents

addition, many of our customer and distributor agreements require us to indemnify and defend our customers or distributors from third-party infringement claims and pay damages in the case of adverse rulings. Claims of this sort also could harm our relationships with our customers or distributors and might deter future customers from doing business with us. We do not know whether we will prevail in these proceedings given the complex technical issues and inherent uncertainties in intellectual property litigation. If any pending or future proceedings result in an adverse outcome, we could be required to:

cease the manufacture, use or sale of the infringing products, processes or technology;

pay substantial damages for infringement;

expend significant resources to develop non-infringing products, processes or technology;

license technology from the third-party claiming infringement, which license may not be available on commercially reasonable terms, or at all;

cross-license our technology to a competitor to resolve an infringement claim, which could weaken our ability to compete with that competitor; or

pay substantial damages to our customers or end users to discontinue their use of or to replace infringing technology sold to them with non-infringing technology.

Any of the foregoing results could have a material adverse effect on our business, financial condition and results of operations.

We utilize a significant amount of intellectual property in our business. If we are unable to protect our intellectual property, our business could be adversely affected.

Our success depends in part upon our ability to protect our intellectual property. To accomplish this, we rely on a combination of intellectual property rights, including patents, copyrights, trademarks and trade secrets in the United States and in selected foreign countries where we believe filing for such protection is appropriate. Effective patent, copyright, trademark and trade secret protection may be unavailable, limited or not applied for in some countries. Some of our products and technologies are not covered by any patent or patent application. We cannot guarantee that:

any of our present or future patents or patent claims will not lapse or be invalidated, circumvented, challenged or abandoned;

our intellectual property rights will provide competitive advantages to us;

our ability to assert our intellectual property rights against potential competitors or to settle current or future disputes will not be limited by our agreements with third parties;

any of our pending or future patent applications will be issued or have the coverage originally sought;

Edgar Filing: MAXLINEAR INC - Form 10-Q

our intellectual property rights will be enforced in jurisdictions where competition may be intense or where legal protection may be weak;

any of the trademarks, copyrights, trade secrets or other intellectual property rights that we presently employ in our business will not lapse or be invalidated, circumvented, challenged or abandoned; or

we will not lose the ability to assert our intellectual property rights against or to license our technology to others and collect royalties or other payments.

In addition, our competitors or others may design around our protected patents or technologies. Effective intellectual property protection may be unavailable or more limited in one or more relevant jurisdictions relative to those protections available in the United States, or may not be applied for in one or more relevant jurisdictions. If we pursue litigation to assert our intellectual property rights, an adverse decision in any of these legal actions could limit our ability to assert our intellectual property rights, limit the value of our technology or otherwise negatively impact our business, financial condition and results of operations.

Monitoring unauthorized use of our intellectual property is difficult and costly. Unauthorized use of our intellectual property may have occurred or may occur in the future. Although we have taken steps to minimize the risk of this occurring, any such failure to identify unauthorized use and otherwise adequately protect our intellectual property would adversely affect our business. Moreover, if we are required to commence litigation, whether as a plaintiff or defendant, not only would this be time-consuming, but we would also be forced to incur significant costs and divert our attention and efforts of our employees, which could, in turn, result in lower revenue and higher expenses.

Table of Contents

We also rely on customary contractual protections with our customers, suppliers, distributors, employees and consultants, and we implement security measures to protect our trade secrets. We cannot assure you that these contractual protections and security measures will not be breached, that we will have adequate remedies for any such breach or that our suppliers, employees or consultants will not assert rights to intellectual property arising out of such contracts.

In addition, we have a number of third-party patent and intellectual property license agreements. Some of these license agreements require us to make one-time payments or ongoing royalty payments. Also, a few of our license agreements contain most-favored nation clauses or other price restriction clauses which may affect the amount we may charge for our products, processes or technology. We cannot guarantee that the third-party patents and technology we license will not be licensed to our competitors or others in the semiconductor industry. In the future, we may need to obtain additional licenses, renew existing license agreements or otherwise replace existing technology. We are unable to predict whether these license agreements can be obtained or renewed or the technology can be replaced on acceptable terms, or at all.

In connection with settling a trademark dispute with Linear Technology Corporation, we agreed not to register the MAXLINEAR mark or any other marks containing the term LINEAR. We may continue to use MAXLINEAR as a corporate identifier, including to advertise our products and services, but may not use that mark on our products. The agreement does not affect our ability to use our registered trademark MxL, which we use on our products. Due to our agreement not to register the MAXLINEAR mark, our ability to effectively prevent third parties from using the MAXLINEAR mark in connection with similar products or technology may be affected. If we are unable to protect our trademarks, we may experience difficulties in achieving and maintaining brand recognition and customer loyalty.

The use of open source software in our products, processes and technology may expose us to additional risks and harm our intellectual property.

Our products, processes and technology sometimes utilize and incorporate software that is subject to an open source license. Open source software is typically freely accessible, usable and modifiable. Certain open source software licenses require a user who intends to distribute the open source software as a component of the user's software to disclose publicly part or all of the source code to the user's software. In addition, certain open source software licenses require the user of such software to make any derivative works of the open source code available to others on unfavorable terms or at no cost. This can subject previously proprietary software to open source license terms.

While we monitor the use of all open source software in our products, processes and technology and try to ensure that no open source software is used in such a way as to require us to disclose the source code to the related product, processes or technology when we do not wish to do so, such use could inadvertently occur. Additionally, if a third party software provider has incorporated certain types of open source software into software we license from such third party for our products, processes or technology, we could, under certain circumstances, be required to disclose the source code to our products, processes or technology. This could harm our intellectual property position and have a material adverse effect on our business, results of operations and financial condition.

We rely on third parties to provide services and technology necessary for the operation of our business. Any failure of one or more of our partners, vendors, suppliers or licensors to provide these services or technology could have a material adverse effect on our business.

We rely on third-party vendors to provide critical services, including, among other things, services related to accounting, billing, human resources, information technology, network development, network monitoring, in-licensing and intellectual property that we cannot or do not create or provide ourselves. We depend on these vendors to ensure that our corporate infrastructure will consistently meet our business requirements. The ability of these third-party vendors to successfully provide reliable and high quality services is subject to technical and operational uncertainties that are beyond our control. While we may be entitled to damages if our vendors fail to perform under their agreements with us, our agreements with these vendors limit the amount of damages we may receive. In addition, we do not know whether we will be able to collect on any award of damages or that these damages would be sufficient to cover the actual costs we would incur as a result of any vendor's failure to perform under its agreement with us. Any failure of our corporate infrastructure could have a material adverse effect on our business, financial condition and results of operations. Upon expiration or termination of any of our agreements with third-party vendors, we may not be able to replace the services provided to us in a timely manner or on terms and conditions, including service levels and cost, that are favorable to us and a transition from one vendor to another vendor could subject us to operational delays and inefficiencies until the transition is complete.

Additionally, we incorporate third-party technology into and with some of our products, and we may do so in future products. The operation of our products could be impaired if errors occur in the third-party technology we use. It may be more difficult for us to correct any errors in a timely manner if at all because the development and maintenance of the technology is not within our control. There can be no assurance that these third parties will continue to make their technology, or improvements to the technology, available to us, or that they will continue to support and maintain their technology. Further, due to the limited number of vendors of some types of technology, it may be difficult to obtain new licenses or replace existing technology. Any impairment of the technology or our relationship with these third parties could have a material adverse effect on our business.

Table of Contents

Unanticipated changes in our tax rates could affect our future results.

Since we operate in different countries and are subject to taxation in different jurisdictions, our future effective tax rates could be impacted by changes in such countries' tax laws or their interpretations. Both domestic and international tax laws are subject to change as a result of changes in fiscal policy, changes in legislation, evolution of regulation and court rulings. The application of these tax laws and related regulations is subject to legal and factual interpretation, judgment and uncertainty. Recently, U.S. President Barack Obama's administration proposed significant changes to the U.S. international tax laws that could limit U.S. deductions for expenses related to un-repatriated foreign-source income, and modify the U.S. foreign tax credit and check-the-box rules. We cannot determine whether these proposals will be enacted into law or what, if any, changes may be made to such proposals prior to their being enacted into law. If the U.S. tax laws change in a manner that increases our tax obligation, it could result in a material adverse impact on our net income and our financial position.

Our future effective tax rate could be unfavorably affected by unanticipated changes in the valuation of our deferred tax assets and liabilities. Changes in our effective tax rate could have a material adverse impact on our results of operations. We record a valuation allowance to reduce our net deferred tax assets to the amount that we believe is more likely than not to be realized. In assessing the need for a valuation allowance, we consider historical levels of income, expectations and risks associated with estimates of future taxable income and ongoing prudent and practical tax planning strategies. On a periodic basis we evaluate our deferred tax asset balance for realizability. To the extent we believe it is more likely than not that some portion of our deferred tax assets will not be realized, we will recognize a valuation allowance against the deferred tax asset. Realization of our deferred tax assets is dependent primarily upon future U.S. taxable income. During the year ended December 31, 2011, we established a full valuation allowance on our net federal deferred tax assets.

Our business, financial condition and results of operations could be adversely affected by the political and economic conditions of the countries in which we conduct business and other factors related to our international operations.

We sell our products throughout the world. Sales to end customers in Asia accounted for 95% of our net revenue in the three months ended March 31, 2012 and 90% our net revenue in the year ended December 31, 2011. Sales to end customers in Japan accounted for 19% of our net revenue in the three months ended March 31, 2012 and 39% of our net revenue in the year ended December 31, 2011. In addition, approximately 25% of our employees are located outside of the United States. All of our products are manufactured, assembled and tested in Asia, and all of our major distributors are located in Asia. Multiple factors relating to our international operations and to particular countries in which we operate could have a material adverse effect on our business, financial condition and results of operations. These factors include:

changes in political, regulatory, legal or economic conditions;

restrictive governmental actions, such as restrictions on the transfer or repatriation of funds and foreign investments and trade protection measures, including export duties and quotas and customs duties and tariffs;

disruptions of capital and trading markets;

changes in import or export licensing requirements;

transportation delays;

civil disturbances or political instability;

geopolitical turmoil, including terrorism, war or political or military coups;

public health emergencies;

differing employment practices and labor standards;

limitations on our ability under local laws to protect our intellectual property;

local business and cultural factors that differ from our customary standards and practices;

nationalization and expropriation;

changes in tax laws;

currency fluctuations relating to our international operating activities; and

difficulty in obtaining distribution and support.

Table of Contents

In addition to a significant portion of our wafer supply coming from Taiwan, substantially all of our products undergo packaging and final test in Taiwan. Any conflict or uncertainty in this country, including due to natural disaster or public health or safety concerns, could have a material adverse effect on our business, financial condition and results of operations. In addition, if the government of any country in which our products are manufactured or sold sets technical standards for products manufactured in or imported into their country that are not widely shared, it may lead some of our customers to suspend imports of their products into that country, require manufacturers in that country to manufacture products with different technical standards and disrupt cross-border manufacturing relationships which, in each case, could have a material adverse effect on our business, financial condition and results of operations.

We also are subject to risks associated with international political conflicts involving the U.S. government. For example, in 2008 we were instructed by the U.S. Department of Homeland Security to cease using Polar Star International Company Limited, a distributor based in Hong Kong, that delivered third-party products, to a political group that the U.S. government did not believe should have been provided with the products in question. As a result, we immediately ceased all business operations with that distributor. The loss of Polar Star as a distributor did not materially delay shipment of our products because Polar Star was a non-exclusive distributor and we had in place alternative distribution arrangements. However, we cannot provide assurances that similar disruptions of distribution arrangements in the future will not result in delayed shipments until we are able to identify alternative distribution channels, which could include a requirement to increase our direct sales efforts. Loss of a key distributor under similar circumstances could have an adverse effect on our business, revenues and operating results.

If we suffer losses to our facilities or distribution system due to catastrophe, our operations could be seriously harmed.

Our facilities and distribution system, and those of our third-party contractors, are subject to risk of catastrophic loss due to fire, flood or other natural or man-made disasters. A number of our facilities and those of our contract manufacturers are located in areas with above average seismic activity. The foundries that manufacture all of our wafers are located in Taiwan, Singapore and Malaysia, and all of the third-party contractors who assemble and test our products also are located in Asia. In addition, our headquarters are located in Southern California. The risk of an earthquake in the Pacific Rim region or Southern California is significant due to the proximity of major earthquake fault lines. For example, in 2002 and 2003, major earthquakes occurred in Taiwan. Any catastrophic loss to any of these facilities would likely disrupt our operations, delay production, shipments and revenue and result in significant expenses to repair or replace the facility. In particular, any catastrophic loss at the Carlsbad and Irvine, California, Taiwan, Singapore or Shanghai facilities would materially and adversely affect our business.

Our business is subject to various governmental regulations, and compliance with these regulations may cause us to incur significant expenses. If we fail to maintain compliance with applicable regulations, we may be forced to recall products and cease their manufacture and distribution, and we could be subject to civil or criminal penalties.

Our business is subject to various international and U.S. laws and other legal requirements, including packaging, product content, labor and import/export regulations. These regulations are complex, change frequently and have generally become more stringent over time. We may be required to incur significant costs to comply with these regulations or to remedy violations. Any failure by us to comply with applicable government regulations could result in cessation of our operations or portions of our operations, product recalls or impositions of fines and restrictions on our ability to conduct our operations. In addition, because many of our products are regulated or sold into regulated industries, we must comply with additional regulations in marketing our products.

Our products and operations are also subject to the rules of industrial standards bodies, like the International Standards Organization, as well as regulation by other agencies, such as the U.S. Federal Communications Commission. If we fail to adequately address any of these rules or regulations, our business could be harmed.

We must conform the manufacture and distribution of our semiconductors to various laws and adapt to regulatory requirements in all countries as these requirements change. If we fail to comply with these requirements in the manufacture or distribution of our products, we could be required to pay civil penalties, face criminal prosecution and, in some cases, be prohibited from distributing our products in commerce until the products or component substances are brought into compliance.

Investor confidence may be adversely impacted if we are unable to comply with Section 404 of the Sarbanes-Oxley Act of 2002, and as a result, our stock price could decline.

We are subject to rules adopted by the Securities Exchange Commission, or SEC, pursuant to Section 404 of the Sarbanes-Oxley Act of 2002, or Sarbanes-Oxley Act, which require us to include in our Annual Report on Form 10-K our management's report on, and assessment of the effectiveness of, our internal controls over financial reporting.

Edgar Filing: MAXLINEAR INC - Form 10-Q

If we fail to maintain the adequacy of our internal controls, there is a risk that we will not comply with all of the requirements imposed by Section 404. Moreover, effective internal controls, particularly those related to revenue recognition, are necessary for us to

Table of Contents

produce reliable financial reports and are important to helping prevent financial fraud. Any of these possible outcomes could result in an adverse reaction in the financial marketplace due to a loss of investor confidence in the reliability of our consolidated financial statements and could result in investigations or sanctions by the SEC, the New York Stock Exchange, or NYSE, or other regulatory authorities or in stockholder litigation. Any of these factors ultimately could harm our business and could negatively impact the market price of our securities. Ineffective control over financial reporting could also cause investors to lose confidence in our reported financial information, which could adversely affect the trading price of our common stock.

Our disclosure controls and procedures are designed to provide reasonable assurance of achieving their objectives. However, our management, including our principal executive officer and principal financial officer, does not expect that our disclosure controls and procedures will prevent all error and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, have been detected.

We are subject to the cyclical nature of the semiconductor industry.

The semiconductor industry is highly cyclical and is characterized by constant and rapid technological change, rapid product obsolescence and price erosion, evolving standards, short product life cycles and wide fluctuations in product supply and demand. The industry is experiencing a significant downturn during the current global recession. These downturns have been characterized by diminished product demand, production overcapacity, high inventory levels and accelerated erosion of average selling prices. The current downturn and any future downturns could have a material adverse effect on our business and operating results. Furthermore, any upturn in the semiconductor industry could result in increased competition for access to third-party foundry and assembly capacity. We are dependent on the availability of this capacity to manufacture and assemble our RF receivers and RF receiver SoCs. None of our third-party foundry or assembly contractors has provided assurances that adequate capacity will be available to us in the future.

Our products must conform to industry standards in order to be accepted by end users in our markets.

Generally, our products comprise only a part of a communications device. All components of these devices must uniformly comply with industry standards in order to operate efficiently together. We depend on companies that provide other components of the devices to support prevailing industry standards. Many of these companies are significantly larger and more influential in driving industry standards than we are. Some industry standards may not be widely adopted or implemented uniformly, and competing standards may emerge that may be preferred by our customers or end users. If larger companies do not support the same industry standards that we do, or if competing standards emerge, market acceptance of our products could be adversely affected, which would harm our business.

Products for communications applications are based on industry standards that are continually evolving. Our ability to compete in the future will depend on our ability to identify and ensure compliance with these evolving industry standards. The emergence of new industry standards could render our products incompatible with products developed by other suppliers. As a result, we could be required to invest significant time and effort and to incur significant expense to redesign our products to ensure compliance with relevant standards. If our products are not in compliance with prevailing industry standards for a significant period of time, we could miss opportunities to achieve crucial design wins. We may not be successful in developing or using new technologies or in developing new products or product enhancements that achieve market acceptance. Our pursuit of necessary technological advances may require substantial time and expense.

Risks Relating to Our Class A Common Stock

The dual class structure of our common stock as contained in our charter documents will have the effect of allowing our founders, executive officers, employees and directors and their affiliates to limit your ability to influence corporate matters that you may consider unfavorable.

We sold Class A common stock in our initial public offering. Our founders, executive officers, directors and their affiliates and employees hold shares of our Class B common stock, which is not publicly traded. Until March 29, 2017, the dual class structure of our common stock will have the following effects with respect to the holders of our Class A common stock:

allows the holders of our Class B common stock to have the sole right to elect two management directors to the Board of Directors;

Table of Contents

with respect to change of control matters, allows the holders of our Class B common stock to have ten votes per share compared to the holders of our Class A common stock who will have one vote per share on these matters; and

with respect to the adoption of or amendments to our equity incentive plans, allows the holders of our Class B common stock to have ten votes per share compared to the holders of our Class A common stock who will have one vote per share on these matters, subject to certain limitations.

Thus, our dual class structure will limit your ability to influence corporate matters and, as a result, we may take actions that our stockholders do not view as beneficial, which may adversely affect the market price of our Class A common stock.

The concentration of our capital stock ownership with our founders, executive officers, employees and our directors and their affiliates will limit your ability to influence corporate matters and their interests may differ from other stockholders.

As of March 31, 2012, our founders, executive officers, directors and their affiliates beneficially owned, in the aggregate, approximately 32% of our outstanding capital, representing approximately 79% of the voting power of our outstanding capital stock with respect to change of control matters and the adoption of or amendment to our equity incentive plans. In particular, our founders and our Chairman, President and Chief Executive Officer, Dr. Seendripu, together control approximately 22% of our outstanding capital stock, representing approximately 54% of the voting power of our outstanding capital stock with respect to change of control matters and the adoption of or amendment to our equity incentive plans. Additionally, approximately 10% of our outstanding common stock is collectively owned by investment funds affiliated with U.S. Venture Partners. A representative of U.S. Venture Partners is a director of MaxLinear. Together with these funds, Dr. Seendripu and the other founders therefore have significant influence over the management and affairs of the Company and over all matters requiring stockholder approval, including the election of two Class B directors and significant corporate transactions, such as a merger or other sale of our Company or its assets, for the foreseeable future.

Our management team may invest or spend the proceeds from our initial public offering in ways with which you may not agree or in ways which may not yield a return.

The net proceeds from our initial public offering may be used for general corporate purposes, including working capital. We may also use a portion of the net proceeds to acquire complementary businesses, products, services or technologies. However, we do not have any agreements or commitments for any specific acquisitions at this time. Our management will have considerable discretion in the application of the net proceeds, and you will not have the opportunity, as part of your investment decision, to assess whether the proceeds are being used appropriately. The net proceeds may be used for corporate purposes that do not increase our operating results or market value. Until the net proceeds are used, they may be placed in investments that do not produce significant income or that may lose value.

Anti-takeover provisions in our charter documents and under Delaware law could make an acquisition of us more difficult, limit attempts by our stockholders to replace or remove our current management and limit the market price of our Class A common stock.

Provisions in our certificate of incorporation and bylaws, as amended and restated, may have the effect of delaying or preventing a change of control or changes in our management. These provisions provide for the following:

authorize our Board of Directors to issue, without further action by the stockholders, up to 25,000,000 shares of undesignated preferred stock;

require that any action to be taken by our stockholders be effected at a duly called annual or special meeting and not by written consent;

specify that special meetings of our stockholders can be called only by our Board of Directors, our Chairman of the Board of Directors, the President of the Company or by unanimous written consent of our directors appointed by the holders of Class B common stock;

Edgar Filing: MAXLINEAR INC - Form 10-Q

establish an advance notice procedure for stockholder approvals to be brought before an annual meeting of our stockholders, including proposed nominations of persons for election to our Board of Directors;

establish that our Board of Directors is divided into three classes, Class I, Class II and Class III, with each class serving staggered terms and with one Class B director being elected to each of Classes II and III;

provide for a dual class common stock structure, which provides our founders, current investors, executives and employees with significant influence over all matters requiring stockholder approval, including the election of directors and significant corporate transactions, such as a merger or other sale of our Company or its assets;

Table of Contents

provide that our directors may be removed only for cause;

provide that vacancies on our Board of Directors may be filled only by a majority of directors then in office, even though less than a quorum, other than any vacancy in the two directorships reserved for the designees of the holders of Class B common stock, which may be filled only by the affirmative vote of the holders of a majority of the outstanding Class B common stock or by the remaining director elected by the Class B common stock (with the consent of founders holding a majority in interest of the Class B common stock over which the founders then exercise voting control);

specify that no stockholder is permitted to cumulate votes at any election of directors; and

require supermajority votes of the holders of our common stock to amend specified provisions of our charter documents.

These provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our Board of Directors, which is responsible for appointing the members of our management. In addition, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which generally prohibits a Delaware corporation from engaging in any of a broad range of business combinations with any interested stockholder for a period of three years following the date on which the stockholder became an interested stockholder.

Our share price may be volatile as a result of limited trading volume and other factors.

Our shares of Class A common stock began trading on the New York Stock Exchange in March 2010. An active public market for our shares on the New York Stock Exchange may not be sustained. In particular, limited trading volumes and liquidity may limit the ability of stockholders to purchase or sell our common stock in the amounts and at the times they wish. Trading volume in our Class A common stock tends to be modest relative to our total outstanding shares, and the price of our Class A common stock may fluctuate substantially (particularly in percentage terms) without regard to news about us or general trends in the stock market. An inactive market may also impair our ability to raise capital to continue to fund operations by selling shares and may impair our ability to acquire other companies or technologies by using our shares as consideration.

In addition, the trading price of our Class A common stock could become highly volatile and could be subject to wide fluctuations in response to various factors, some of which are beyond our control. These factors include those discussed in this Risk Factors section of this Annual Report on Form 10-K and others such as:

actual or anticipated fluctuations in our financial condition and operating results;

overall conditions in the semiconductor market;

addition or loss of significant customers;

changes in laws or regulations applicable to our products;

actual or anticipated changes in our growth rate relative to our competitors;

announcements of technological innovations by us or our competitors;

Edgar Filing: MAXLINEAR INC - Form 10-Q

announcements by us or our competitors of significant acquisitions, strategic partnerships, joint ventures or capital commitments;

additions or departures of key personnel;

competition from existing products or new products that may emerge;

issuance of new or updated research or reports by securities analysts;

fluctuations in the valuation of companies perceived by investors to be comparable to us;

disputes or other developments related to proprietary rights, including patents, litigation matters and our ability to obtain intellectual property protection for our technologies;

announcement or expectation of additional financing efforts;

sales of our Class A or Class B common stock by us or our stockholders;

share price and volume fluctuations attributable to inconsistent trading volume levels of our shares; and

general economic and market conditions.

Table of Contents

Furthermore, the stock markets recently have experienced extreme price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many companies. These fluctuations often have been unrelated or disproportionate to the operating performance of those companies. These broad market and industry fluctuations, as well as general economic, political and market conditions such as recessions, interest rate changes or international currency fluctuations, may negatively impact the market price of our Class A common stock. In the past, companies that have experienced volatility in the market price of their stock have been subject to securities class action litigation. We may be the target of this type of litigation in the future. Securities litigation against us could result in substantial costs and divert our management's attention from other business concerns, which could seriously harm our business.

If securities or industry analysts do not publish research or reports about our business, or publish negative reports about our business, especially due to our dual-class voting structure, our share price and trading volume could decline.

The trading market for our Class A common stock depends in part on the research and reports that securities or industry analysts publish about us or our business, especially with respect to our unique dual-class voting structure as to the election of directors, change of control matters and matters related to our equity incentive plans. We do not have any control over these analysts. If one or more of the analysts who cover us downgrade our shares or change their opinion of our shares, our share price would likely decline. If one or more of these analysts cease coverage of our Company or fail to regularly publish reports on us, we could lose visibility in the financial markets, which could cause our share price or trading volume to decline.

Future sales of our Class A common stock in the public market could cause our share price to decline.

Sales of a substantial number of shares of our Class A common stock in the public market, or the perception that these sales might occur, could depress the market price of our Class A common stock and could impair our ability to raise capital through the sale of additional equity securities. As of March 31, 2012, we had 22.2 million shares of Class A common stock and 11.2 million shares of Class B common stock outstanding.

All shares of Class A common stock are freely tradable without restrictions or further registration under the Securities Act of 1933, as amended, or the Securities Act, except for any shares held by our affiliates as defined in Rule 144 under the Securities Act.

The holders of 3.3 million shares of Class B common stock, or 10% of our total outstanding Class A and Class B common stock, are entitled to rights with respect to registration of these shares under the Securities Act pursuant to a registration rights agreement. Shares of our Class B common stock automatically will convert into shares of our Class A common stock upon any sale or transfer, whether or not for value, except for certain transfers described in our amended and restated certificate of incorporation. If these holders of our Class B common stock, by exercising their registration rights, sell a large number of shares, they could adversely affect the market price for our Class A common stock. If we file a registration statement for the purposes of selling additional shares to raise capital and are required to include shares held by these holders pursuant to the exercise of their registration rights, our ability to raise capital may be impaired. We filed registration statements on Form S-8 under the Securities Act to register 13.3 million shares of our Class A common stock for issuance under our 2010 Equity Incentive Plan and 2010 Employee Stock Purchase Plan. These shares may be freely sold in the public market upon issuance and once vested, subject to other restrictions provided under the terms of the applicable plan and/or the option agreements entered into with option holders.

The requirements of being a public company may strain our resources, divert management's attention and affect our ability to attract and retain qualified board members.

As a public company, we are subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, or the Exchange Act, the Sarbanes-Oxley Act, the listing requirements of the NYSE and other applicable securities rules and regulations. None of our senior executives has managed a public company prior to our becoming a public company in March 2010. Compliance with these rules and regulations have increased our legal and financial compliance costs, made some activities more difficult, time-consuming or costly and increased the demand on our systems and resources. The Exchange Act requires, among other things, that we file annual, quarterly and current reports with respect to our business and financial condition. The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. In order to maintain and, if required, improve our disclosure controls and procedures and internal control over financial reporting to meet this standard, significant resources and management oversight may be required. As a result, management's attention may be diverted from other business concerns, which could have a material adverse effect on our business, financial condition and results of operations. Although we have already hired additional staff to comply with these requirements, we may need to hire more employees in the future, which will increase our costs and expenses.

Table of Contents

In addition, changing laws, regulations and standards relating to corporate governance and public disclosure are creating uncertainty for public companies, increasing legal and financial compliance costs and making some activities more time consuming. These laws, regulations and standards are subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices. We intend to invest resources to comply with evolving laws, regulations and standards, and this investment may result in increased general and administrative expenses and a diversion of management's time and attention from revenue-generating activities to compliance activities. If our efforts to comply with new laws, regulations and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to practice, regulatory authorities may initiate legal proceedings against us and our business may be harmed.

We also expect that being a newly public company and these new rules and regulations will make it more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. These factors could also make it more difficult for us to attract and retain qualified members of our Board of Directors, particularly to serve on our audit committee and compensation committee, and qualified executive officers.

We do not intend to pay dividends for the foreseeable future.

We have never declared or paid any cash dividends on our common stock and do not intend to pay any cash dividends in the foreseeable future. We anticipate that we will retain all of our future earnings for use in the development of our business and for general corporate purposes. Any determination to pay dividends in the future will be at the discretion of our Board of Directors. Accordingly, investors must rely on sales of their Class A common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investments.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Recent Sales of Unregistered Securities

In the fiscal quarter ended March 31, 2012, we issued an aggregate of 81,241 shares of our Class B common stock to certain employees upon the exercise of options awarded under our 2004 Stock Plan. We received aggregate proceeds of approximately \$93 in the fiscal quarter ended March 31, 2012 as a result of the exercise of these options. We believe these transactions were exempt from the registration requirements of the Securities Act in reliance on Rule 701 thereunder as transactions pursuant to compensatory benefit plans and contracts relating to compensation as provided under Rule 701. As of March 31, 2012, options to purchase an aggregate of 2,607,271 shares of our Class B common stock remain outstanding. All issuances of shares of our Class B common stock pursuant to the exercise of these options will be made in reliance on Rule 701. All option grants made under the 2004 Stock Plan were made prior to the effectiveness of our initial public offering. No further option grants will be made under our 2004 Stock Plan.

The sales and issuances of securities in the transactions described above were deemed to be exempt from registration under the Securities Act of 1933, as amended, in reliance upon Rule 701 promulgated under Section 3(b) of the Securities Act of 1933, as amended, as transactions pursuant to compensatory benefit plans and contracts relating to compensation as provided under Rule 701. The recipients of securities in each transaction represented their intentions to acquire the securities for investment only and not with a view to or for sale in connection with any distribution thereof and appropriate legends were affixed to the securities issued in these transactions. All recipients had adequate access, through employment or other relationships, to information about us. All certificates representing the securities issued in these transactions included appropriate legends setting forth that the securities had not been offered or sold pursuant to a registration statement and describing the applicable restrictions on transfer of the securities. There were no underwriters employed in connection with any of the transactions set forth above. Each share of our Class B common stock is convertible at any time at the option of the holder into one share of our Class A common stock. In addition, each share of our Class B common stock will convert automatically into one share of Class A common stock upon any transfer, whether or not for value, except for certain transfers described in our certificate of incorporation.

Use of Proceeds

Our initial public offering of Class A common stock was effected through a Registration Statement on Form S-1 (File No. 333-162947) that was declared effective by the SEC on March 23, 2010. From the effective date of the registration statement through March 31, 2012, we have used the net proceeds of the offering for working capital purposes, including expenditures for inventory, personnel costs, equipment and acquired intellectual property, and other operating expenses.

Table of Contents

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

None.

Table of Contents**ITEM 6. EXHIBITS**

Exhibit Number	Exhibit Title
+10.1	Employee Offer Letter, dated September 12, 2011, by and between MaxLinear, Inc. and Justin Scarpulla (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed with the SEC on March 15, 2012).
+10.2	Separation Agreement, dated March 15, 2012, by and between MaxLinear, Inc. and Patrick E. McCready (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, filed with the SEC on March 15, 2012).
31.1	Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification 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

+ Indicates a management contract or compensatory plan.

(*)In accordance with Rule 402 of Regulation S-T, the information in these exhibits shall not be deemed to be filed for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, and shall not be incorporated by reference into any registration statement or other document filed under the Securities Act, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

Table of Contents

SIGNATURES

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

Date: May 2, 2012

MAXLINEAR, INC.

(Registrant)

By: /s/ Adam C. Spice
Adam C. Spice
Vice President and Chief Financial Officer
(Principal Financial Officer)

/s/ Justin Scarpulla
Justin Scarpulla
Chief Accounting Officer and Corporate Controller
(Principal Accounting Officer)

Table of Contents

EXHIBIT INDEX

Exhibit Number	Exhibit Title
+10.1	Employee Offer Letter, dated September 12, 2011, by and between MaxLinear, Inc. and Justin Scarpulla (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed with the SEC on March 15, 2012).
+10.2	Separation Agreement, dated March 15, 2012, by and between MaxLinear, Inc. and Patrick E. McCready (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, filed with the SEC on March 15, 2012).
31.1	Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification 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

+ Indicates a management contract or compensatory plan.

(*) In accordance with Rule 402 of Regulation S-T, the information in these exhibits shall not be deemed to be filed for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, and shall not be incorporated by reference into any registration statement or other document filed under the Securities Act, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.