

MEDTRONIC INC
Form S-8
December 16, 2014

As filed with the Securities and Exchange Commission on December 16, 2014

Registration No. 333-

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

FORM S-8
REGISTRATION STATEMENT

Under
The Securities Act of 1933

Medtronic, Inc.
(Exact Name of Registrant as Specified in Its Charter)

Minnesota
(State or Other Jurisdiction of

Incorporation or Organization)

710 Medtronic Parkway

41-0793183
(I.R.S. Employer

Identification No.)

Minneapolis, Minnesota 55432

(Address, Including Zip Code, of Registrant's Principal Executive Offices)

MEDTRONIC, INC. 2014 EMPLOYEES STOCK PURCHASE PLAN

(Full Title of the Plan)

Bradley E. Lerman

Senior Vice President, General Counsel and Corporate Secretary

710 Medtronic Parkway

Minneapolis, Minnesota 55432

(763) 514-4000

(Name, address and telephone number, including area code, of agent for service)

Copies to:

Erica Schohn

Skadden, Arps, Slate, Meagher & Flom LLP

Four Times Square

New York, New York 10036

(212) 735-3000

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 ☐

Smaller reporting company ☐

CALCULATION OF REGISTRATION FEE

Title of Securities	Amount	Proposed	Proposed	
	To Be	Maximum	Maximum	Amount Of
To Be Registered	Registered (1)	Offering Price	Aggregate	Registration Fee
		Per Share	Offering Price	
Common stock, par value \$0.10 per share				
Total	22,000,000 shares	\$73.11 (2)	\$1,608,420,000	\$186,898.40

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the Securities Act), this Registration Statement shall also cover any additional common stock, par value \$0.10 per share of Medtronic, Inc. (the Company), which may become issuable under the plans covered by this Registration Statement by reason of any stock dividend, stock split, recapitalization or any other similar transaction effected without the receipt of consideration which results in an increase in the number of the Company s outstanding common stock.
- (2) Estimated solely for the purpose of calculating the registration fee. This registration fee has been calculated pursuant to Rule 457(h)(1) and Rule 457(c) of the Securities Act, based upon the average of the high and low prices of Company s common stock on December 12, 2014, as reported by the New York Stock Exchange, which was \$73.11.

EXPLANATORY NOTE

This registration statement on Form S-8 (the **Registration Statement**) relates to the registration of common stock, par value \$0.10 per share (the **Common Stock**), of the Company to be offered and sold under Medtronic, Inc. 2014 Employees Stock Purchase Plan (the **Plan**).

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Item 1. Plan Information.*

Item 2. Registrant Information and Employee Plan Annual Information.*

- * The documents containing the information specified in Part I will be sent or given to employees, officers, directors or others as specified by Rule 428(b)(1) under the Securities Act. In accordance with the rules and regulations of the Securities and Exchange Commission (the **SEC**) and the instructions to Form S-8, such documents are not being filed with the SEC either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. These documents and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II of this Registration Statement, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act. Upon written or oral request, the Company will provide, without charge, the documents incorporated by reference in Item 3 of Part II of this Registration Statement. The Company will also provide, without charge, upon written or oral request, other documents required to be delivered to employees pursuant to Rule 428(b).

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

The following documents previously filed with the SEC are incorporated by reference in this Registration Statement:

- (a) The Company's Annual Report on Form 10-K for the fiscal year ended April 25, 2014, filed with the SEC on June 20, 2014;
- (b) The Company's Quarterly Reports on Form 10-Q for the quarters ended July 25, 2014 and October 24, 2014, filed with the SEC on August 29, 2014 and November 26, 2014, respectively;
- (c) The Company's Current Reports on Form 8-K, filed with the SEC on June 2, 2014, June 10, 2014, June 16, 2014, June 18, 2014, July 17, 2014, August 7, 2014, August 26, 2014, September 17, 2014, October 30, 2014, November 10, 2014, November 12, 2014, November 17, 2014, November 26, 2014, December 1,

2014, December 2, 2014, December 4, 2014 and December 10, 2014;

(d) All other reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the Exchange Act) since the end of the fiscal year covered by the Company's Form 10-K referred to in (a) above (other than information contained in Current Reports on Form 8-K that is furnished, but not filed); and

(e) The description of Common Stock contained in Amendment No. 2 to the Registration Statement on Form S-4 (No. 333-121239) filed with the SEC on January 10, 2005, under the heading Description of Capital Stock (except for preferred stock purchase rights, which have been terminated).

In addition, any and all documents subsequently filed by the Company with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, prior to the filing of a post-effective amendment to this registration statement which indicates that all securities offered hereby have been sold or which deregisters all such securities then remaining unsold, shall be deemed to be incorporated by reference in this registration statement and to be part hereof from the date of filing of such documents.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified, superseded or replaced by a statement or information contained in any other subsequently filed document incorporated herein by reference. Any such statement so modified, superseded or replaced shall not be deemed, except as so modified, superseded or replaced, to constitute a part of this registration statement.

Item 4. Description of Securities

Not applicable.

Item 5. Interests of Named Experts and Counsel

Not applicable.

Item 6. Indemnification of Directors and Officers

Minnesota Statutes, Section 302A.521, subd. 2, requires the Company to indemnify a person made or threatened to be made a party to a proceeding by reason of the former or present official capacity of the person with respect to the Company, against judgments, penalties, fines, settlements, and reasonable expenses, including attorneys' fees and disbursements, incurred by the person in connection with the proceeding if, with respect to the acts or omissions of the person complained of in the proceeding, the person: (i) has not been indemnified by another organization with respect to the same acts or omissions; (ii) acted in good faith; (iii) received no improper personal benefit and Minnesota Statutes, Section 302A.255 (regarding conflicts of interest), if applicable, has been satisfied; (iv) in the case of a criminal proceeding, had no reasonable cause to believe the conduct was unlawful; and (v) in the case of acts or omissions by persons in their official capacity for the Company, reasonably believed that the conduct was in the best interests of the Company, or in the case of acts or omissions by persons in their capacity for other organizations, reasonably believed that the conduct was not opposed to the best interests of the Company. In addition, Section 302A.521, subd. 3 requires payment by the Company, upon written request, of reasonable expenses in advance of final disposition of the proceeding (i) upon receipt by the Company of a written affirmation by the person of a good faith belief that the requirements for indemnification set forth above have been met as well

as a written undertaking by the person to repay all amounts so paid or reimbursed by the Company, if it is ultimately determined that the criteria for indemnification have not been satisfied, and (ii) after a determination that the facts then known to those making the determination would not preclude indemnification under this section. Under Section 302A.521, subd. 4, the Company may amend its articles of incorporation or bylaws to prohibit or condition such indemnification or expense advancement rights. A decision as to required indemnification is made by a disinterested majority of the Board of Directors present at a meeting at which a disinterested quorum is present, or by a designated committee of the Board consisting of disinterested directors, by special legal counsel, by the shareholders, or by a court. A director is disinterested if he or she is not a party to the proceeding for which indemnification or expense advancement is at issue. Section 302A.521 contains detailed terms regarding such right of indemnification and reference is made thereto for a complete statement of such indemnification rights.

The Company's Bylaws provide that the Company shall indemnify such persons for such expenses and liabilities, in such manner, under such circumstances and to such extent permitted by Minnesota Statutes, Section 302A.521, as now enacted or hereafter amended, or as required or permitted by other provisions of law. As permitted by Minnesota Statutes, Section 302A.521, the Company's Amended and Restated Articles of Incorporation provide that a director shall have no personal liability to the Company or its shareholders for monetary damages for breach of his or her fiduciary duty as a director, provided, however that the Company's Amended and Restated Articles of Incorporation will not eliminate or limit the liability of a director to the extent permitted by applicable law (i) for any breach of the director's duty of loyalty to the Company or its shareholders; (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) for approving dividends or other distributions of corporate assets that are in contravention of certain statutory restrictions, or in contravention of the Company's Amended and Restated Articles of Incorporation or Bylaws or an agreement, and who fails to comply with the standard of conduct required by Minnesota Statutes, Section 302A.251; (iv) violations of certain Minnesota securities laws; (v) for any transaction from which the director derived an improper personal benefit; or (vi) for any act or omission occurring prior to the effective date of the applicable provision of the Company's Amended and Restated Articles of Incorporation.

In addition, the letter agreement governing employment of the Company's Chief Executive Officer, a copy of which has been filed with the SEC, contains an indemnification provision consistent with the foregoing, and the Company has agreed, pursuant to change of control agreements that have been filed in form with the SEC, to indemnify certain officers in the event that it is obligated to make change of control payments to such officers and the payments result in certain excise or income taxes. The Company also maintains a director and officer liability insurance policy to cover the Company's directors and officers against certain liabilities and expenses incurred by reason of certain acts of such persons in their capacities as directors and officers, and to cover the Company's reimbursement of payments to its directors and officers in respect of such liabilities and expenses.

Item 7. Exemption From Registration Claimed

Not applicable.

Item 8. Exhibits

For the list of exhibits, see the Exhibit Index to this Registration Statement, which is incorporated in this item by reference.

Item 9. Undertakings

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the SEC by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference herein.

(2) That for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to section 13(a) or section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense

of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Minneapolis, Minnesota, on December 16, 2014.

MEDTRONIC, INC.

By: /s/ Bradley E. Lerman
Name: Bradley E. Lerman
Title: Senior Vice President, General
Counsel and Corporate Secretary

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears immediately below constitutes and appoints Bradley E. Lerman, his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement, and to file the same with all exhibits thereto and other documents in connection therewith with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the date indicated.

Signature	Title	Date
/s/ Omar Ishrak Omar Ishrak	Chairman and Chief Executive Officer (principal executive officer)	December 16, 2014
/s/ Gary L. Ellis Gary L. Ellis	Executive Vice President and Chief Financial Officer (principal financial and accounting officer)	December 16, 2014
/s/ Richard H. Anderson Richard H. Anderson	Director	December 16, 2014
/s/ Scott C. Donnelly Scott C. Donnelly	Director	December 16, 2014
/s/ Shirley Ann Jackson, Ph.D. Shirley Ann Jackson, Ph.D.	Director	December 16, 2014
/s/ Michael O. Leavitt Michael O. Leavitt	Director	December 16, 2014
/s/ James T. Lenehan James T. Lenehan	Director	December 16, 2014
/s/ Elizabeth G. Nabel Elizabeth G. Nabel	Director	December 16, 2014
/s/ Denise M. O Leary Denise M. O Leary	Director	December 16, 2014
/s/ Kendall J. Powell Kendall J. Powell	Director	December 16, 2014
/s/ Robert C. Pozen Robert C. Pozen	Director	December 16, 2014
/s/ Preetha Reddy Preetha Reddy	Director	December 16, 2014

EXHIBIT INDEX

Exhibit No.	Description
3.1	Medtronic, Inc. Amended and Restated Articles of Incorporation (as amended through August 25, 2014) (incorporated herein by reference to Exhibit 3.1 to the Registrant's Form 8-K filed with the SEC on August 26, 2014).
3.2	Medtronic, Inc. Bylaws (as amended through May 30, 2014) (incorporated herein by reference to Exhibit 3.1 to the Registrant's Form 8-K filed with the SEC on June 2, 2014).
4.1	Medtronic, Inc. 2014 Employees Stock Purchase Plan (incorporated herein by reference to Exhibit 10.3 to the Registrant's Form 10-Q filed with the SEC on August 29, 2014).
5.1	Opinion of Counsel.
23.1	Consent of PricewaterhouseCoopers LLP, Independent Registered Public Accounting Firm.
23.2	Consent of Counsel (included in Exhibit 5.1).
24.1	Power of Attorney (included on signature page).