CELGENE CORP /DE/
Form 10-Q
August 04, 2010

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-Q

(Mark one)

þ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the quarterly period ended June 30, 2010
OR

o **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 0-16132
CELGENE CORPORATION
(Exact name of registrant as specified in its charter)

Delaware	**22-2711928**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)
86 Morris Avenue, Summit, NJ	**07901**
(Address of principal executive offices)	(Zip Code)

(908) 673-9000
(Registrant s telephone number, including area code)

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 þ No o

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 þ No o

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 þ	Accelerated filer o	Non-accelerated filer o (Do not check if a smaller reporting company)	Smaller reporting company o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes o No þ

At July 23, 2010, 459,453,964 shares of Common Stock, par value $.01 per share, were outstanding.

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EX-101 CALCULATION LINKBASE DOCUMENT
EX-101 LABELS LINKBASE DOCUMENT
EX-101 PRESENTATION LINKBASE DOCUMENT
EX-101 DEFINITION LINKBASE DOCUMENT

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CELGENE CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)
(In thousands, except per share amounts)

	Three-Month Periods Ended June 30,		Six-Month Periods Ended June 30,	
	2010	2009	2010	2009
Revenue:				
Net product sales	$ 823,097	$ 598,154	$ 1,582,508	$ 1,174,386
Collaborative agreements and other revenue	2,544	2,354	4,924	4,598
Royalty revenue	27,051	28,158	56,514	54,735
Total revenue	852,692	628,666	1,643,946	1,233,719
Expenses:				
Cost of goods sold (excluding amortization of acquired intangible assets)	67,993	50,902	129,908	115,201
Research and development	342,761	218,500	547,418	399,747
Selling, general and administrative	219,262	176,311	427,241	349,752
Amortization of acquired intangible assets	47,068	22,667	88,661	46,292
Acquisition related charges	7,836		12,698	
Total costs and expenses	684,920	468,380	1,205,926	910,992
Operating income	167,772	160,286	438,020	322,727
Other income and expense:				
Interest and investment income, net	10,125	24,072	24,209	41,525
Equity in (gains) losses of affiliated companies	103	(157)	(638)	615
Interest expense	426	527	907	991
Other income (expense), net	(5,089)	5,176	(1,323)	37,786
Income before income taxes	172,279	189,164	460,637	400,432
Income tax provision	16,927	46,329	70,843	94,715
Net income	$ 155,352	$ 142,835	$ 389,794	$ 305,717
Net income per common share:				
Basic	$ 0.34	$ 0.31	$ 0.85	$ 0.67
Diluted	$ 0.33	$ 0.31	$ 0.83	$ 0.65
Weighted average shares:				

Basic	460,309	459,586	460,112	459,584
Diluted	467,425	467,082	467,557	467,759

See accompanying Notes to Unaudited Consolidated Financial Statements

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CELGENE CORPORATION AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(Unaudited)
(Dollars in thousands, except per share amounts)

	June 30, 2010	December 31, 2009
Assets		
Current assets:		
Cash and cash equivalents	$ 855,608	$ 1,102,172
Marketable securities available for sale	2,289,009	1,894,580
Accounts receivable, net of allowances of $8,835 and $10,787 at June 30, 2010 and December 31, 2009, respectively	477,361	438,617
Inventory	100,797	100,683
Deferred income taxes	68,751	49,817
Other current assets	303,368	258,935
Total current assets	4,094,894	3,844,804
Property, plant and equipment, net	309,401	297,792
Investment in affiliated companies	23,580	21,476
Intangible assets, net	806,313	349,542
Goodwill	764,612	578,116
Other assets	179,438	297,581
Total assets	$ 6,178,238	$ 5,389,311
Liabilities and Stockholders Equity		
Current liabilities:		
Accounts payable	$ 66,975	$ 36,629
Accrued expenses	307,965	315,608
Income taxes payable	9,013	46,874
Current portion of deferred revenue	2,886	1,827
Other current liabilities	86,564	93,767
Total current liabilities	473,403	494,705
Deferred revenue, net of current portion	9,267	6,527
Non-current income taxes payable	458,694	422,358
Other non-current liabilities	309,064	71,115
Total liabilities	1,250,428	994,705
Commitments and Contingencies		

Stockholders Equity:

Preferred stock, $.01 par value per share, 5,000,000 shares authorized; none outstanding at June 30, 2010 and December 31, 2009, respectively		
Common stock, $.01 par value per share, 575,000,000 shares authorized; issued 469,679,775 and 467,629,433 shares at June 30, 2010 and December 31, 2009, respectively	4,697	4,676
Common stock in treasury, at cost; 10,233,211 and 8,337,961 shares at June 30, 2010 and December 31, 2009, respectively	(458,417)	(362,521)
Additional paid-in capital	5,565,056	5,474,122
Accumulated deficit	(242,452)	(632,246)
Accumulated other comprehensive income (loss)	58,926	(89,425)
Total stockholders equity	4,927,810	4,394,606
Total liabilities and stockholders equity	$ 6,178,238	$ 5,389,311

See accompanying Notes to Unaudited Consolidated Financial Statements

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CELGENE CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(Dollars in thousands)

	Six-Month Periods Ended June 30,	
	2010	**2009**
Cash flows from operating activities:		
Net income	$ 389,794	$ 305,717
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation of long-term assets	25,470	19,262
Amortization of intangible assets	89,224	46,527
Allocation of pre-paid royalties	24,467	16,553
Provision for accounts receivable allowances	(1,718)	2,620
Deferred income taxes	(34,933)	(21,200)
Acquisition related charges accretion	10,754	
Share-based compensation expense	86,571	68,469
Equity in (gains) losses of affiliated companies	(638)	615
Share-based employee benefit plan expense	6,904	6,018
Unrealized change in value of foreign currency forward contracts	17,640	(25,943)
Realized gains on marketable securities available for sale	(6,018)	(17,171)
Other, net	2,820	2,049
Change in current assets and liabilities, excluding the effect of the acquisition:		
Accounts receivable	(73,020)	(36,536)
Inventory	927	16,822
Other operating assets	37,378	(28,560)
Accounts payable and other operating liabilities	15,539	(36,818)
Income tax payable	(258)	(7,660)
Deferred revenue	4,148	1,276
Net cash provided by operating activities	595,051	312,040
Cash flows from investing activities:		
Proceeds from sales of marketable securities available for sale	2,037,313	850,274
Purchases of marketable securities available for sale	(2,420,620)	(1,334,675)
Payments for acquisition of business, net of cash acquired	(337,608)	
Capital expenditures	(40,238)	(38,702)
Investment in affiliated companies	(1,466)	(1,700)
Purchases of investment securities	(13,562)	(10,847)
Other		3,333
Net cash used in investing activities	(776,181)	(532,317)

Cash flows from financing activities:		
Payment for treasury shares	(105,436)	(100,000)
Net proceeds from exercise of common stock options and warrants	44,996	16,569
Excess tax benefit from share-based compensation arrangements	15,938	69,713
Net cash used in financing activities	(44,502)	(13,718)
Effect of currency rate changes on cash and cash equivalents	(20,932)	8,452
Net decrease in cash and cash equivalents	(246,564)	(225,543)
Cash and cash equivalents at beginning of period	1,102,172	1,092,386
Cash and cash equivalents at end of period	$ 855,608	$ 866,843

See accompanying Notes to Unaudited Consolidated Financial Statements

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CELGENE CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS (Continued)
(Unaudited)
(Dollars in thousands)

	Six-Month Periods Ended June 30,	
	2010	**2009**
Supplemental schedule of non-cash investing and financing activity:		
Change in net unrealized (gain) on marketable securities available for sale	$ (15,172)	$ (590)
Matured shares tendered in connection with stock option exercises	$ (163)	$ (597)
Supplemental disclosure of cash flow information:		
Income taxes paid	$ 83,342	$ 52,761

See accompanying Notes to Unaudited Consolidated Financial Statements

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CELGENE CORPORATION AND SUBSIDIARIES
NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS
(In all accompanying tables, amounts of dollars expressed in thousands, except per share amounts, unless otherwise indicated)

1. Nature of Business and Basis of Presentation

Celgene Corporation and its subsidiaries (collectively Celgene or the Company) is a global biopharmaceutical company primarily engaged in the discovery, development and commercialization of innovative therapies designed to treat cancer and immune-inflammatory diseases.

The Company s primary commercial stage products include REVLIMID®, THALOMID® (inclusive of Thalidomide Celgene® and Thalidomide Pharmion®) and VIDAZA®. FOCALIN® is sold exclusively to Novartis Pharma AG, or Novartis. ISTODAX®, which was obtained in the acquisition of Gloucester Pharmaceuticals, Inc., or Gloucester, was approved in November 2009 by the U.S. Food and Drug Administration, or FDA, for the treatment of cutaneous T-cell lymphoma, or CTCL, in patients who have received at least one prior systemic therapy and was launched in the first quarter of the year ending December 31, 2010. The Company s other sources of revenues include a licensing agreement with Novartis, which entitles it to royalties on FOCALIN XR® and the entire RITALIN® family of drugs. ALKERAN® was licensed from GlaxoSmithKline, or GSK, and sold under the Celgene label through March 31, 2009, the conclusion date of the ALKERAN® license with GSK. For the ensuing two years, the Company continues to earn residual payments based upon GSK s ALKERAN® revenues. The Company also derives revenues from the sale of services through its Cellular Therapeutics subsidiary and miscellaneous licensing agreements.

The accompanying unaudited consolidated financial statements have been prepared from the books and records of the Company pursuant to U.S. generally accepted accounting principles for interim information and the rules and regulations of the Securities and Exchange Commission for interim reporting. Pursuant to such rules and regulations, certain information and footnote disclosures normally included in complete annual financial statements have been condensed or omitted. The consolidated financial statements include the accounts of Celgene Corporation and its subsidiaries. All intercompany transactions and balances have been eliminated. Investments in limited partnerships and interests in which the Company has an equity interest of 50% or less and does not otherwise have a controlling financial interest are accounted for by either the equity or cost method. The interim consolidated financial statements should be read in conjunction with the consolidated financial statements and notes thereto included in the Company s Annual Report on Form 10-K for the year ended December 31, 2009, or the 2009 Annual Report on Form 10-K.

The preparation of the consolidated financial statements requires management to make estimates and assumptions that affect reported amounts and disclosures. Actual results could differ from those estimates. The Company is subject to certain risks and uncertainties related to product development, regulatory approval, market acceptance, scope of patent and proprietary rights, competition, technological change and product liability.

Interim results may not be indicative of the results that may be expected for the full year. In the opinion of management, these financial statements include all normal and recurring adjustments considered necessary for a fair presentation of these interim consolidated financial statements. Effective January 1, 2010, the Company changed the functional currency of Celgene International Sarl from the Euro to the US Dollar. Significant changes in economic facts and circumstances supported this change in functional currency and the change was applied on a prospective basis.

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CELGENE CORPORATION AND SUBSIDIARIES
NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

2. Summary of Significant Accounting Policies

The Company s significant accounting policies are described in Note 1 of the Notes to the Consolidated Financial Statements included in the 2009 Annual Report on Form 10-K.

New Accounting Pronouncements: In October 2009, the Financial Accounting Standards Board, or FASB, issued Accounting Standard Update, or ASU No. 2009-13, Multiple-Deliverable Revenue Arrangements, or ASU 2009-13, which amends existing revenue recognition accounting pronouncements that are currently within the scope of ASC 605. This guidance eliminates the requirement to establish the fair value of undelivered products and services and instead provides for separate revenue recognition based upon management s estimate of the selling price for an undelivered item when there is no other means to determine the fair value of that undelivered item. ASU 2009-13 is effective prospectively for revenue arrangements entered into or materially modified in fiscal years beginning on or after June 15, 2010. The Company is currently evaluating the impact, if any, that the adoption of this amendment will have on its consolidated financial statements.

In January 2010, the FASB issued ASU No. 2010-06, Improving Disclosures About Fair Value Measurements, or ASU 2010-06, which amends ASC 820 to add new requirements for disclosures about transfers into and out of Levels 1 and 2 and separate disclosures about purchases, sales, issuances, and settlements relating to Level 3 measurements. ASU 2010-06 also clarifies existing fair value disclosures about the level of disaggregation and about inputs and valuation techniques used to measure fair value. Further, ASU 2010-06 amends guidance on employers disclosures about postretirement benefit plan assets under ASC 715 to require that disclosures be provided by classes of assets instead of by major categories of assets. ASU 2010-06 was effective for the first reporting period (including interim periods) beginning after December 15, 2009, except for the requirement to provide the Level 3 activity of purchases, sales, issuances, and settlements on a gross basis, which will be effective for fiscal years beginning after December 15, 2010, and for interim periods within those fiscal years. Early adoption is permitted. The section of the amendment pertaining to transfers into and out of Levels 1 and 2 was effective for the Company beginning January 1, 2010. The adoption of this section of the amendment did not have any impact on the Company s consolidated financial statements. The section of the amendment pertaining to Level 3 measurements will be effective for the Company beginning January 1, 2011. The Company is currently evaluating the impact, if any, that the adoption of this amendment will have on its consolidated financial statements.

In April 2010, the FASB issued ASU No. 2010-17, Milestone Method of Revenue Recognition, or ASU 2010-17, to (1) limit the scope of this ASU to research or development arrangements and (2) require that guidance in this ASU be met for an entity to apply the milestone method (record the milestone payment in its entirety in the period received). However, the FASB clarified that, even if the requirements in ASU 2010-17 are met, entities would not be precluded from making an accounting policy election to apply another appropriate accounting policy that results in the deferral of some portion of the arrangement consideration. The guidance in ASU 2010-17 will apply to milestones in both single-deliverable and multiple-deliverable arrangements involving research or development transactions. ASU 2010-17 will be effective for fiscal years (and interim periods within those fiscal years) beginning on or after June 15, 2010. Early application is permitted. Entities can apply this guidance prospectively to milestones achieved after adoption. However, retrospective application to all prior periods is also permitted. The Company is currently evaluating the impact, if any, that the adoption of ASU 2010-17 will have on its consolidated financial statements.

3. Acquisition of Gloucester Pharmaceuticals, Inc.

On January 15, 2010, the Company acquired all of the outstanding common stock and stock options of Gloucester in a transaction accounted for under the acquisition method of accounting for business combinations, ASC No. 805, Business Combinations, or ASC 805. Under the acquisition method of accounting, the assets acquired and liabilities assumed of Gloucester were recorded as of the acquisition date, at their respective fair values, and consolidated with those of the Company. The reported consolidated financial condition and results of operations of the Company after completion of the acquisition reflect these fair values. Gloucester s results of operations are included in the Company s consolidated financial statements from the date of acquisition. Gloucester s results of operations prior to the acquisition were determined to be immaterial to the Company; therefore, proforma financial statements are not required to be

presented.

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CELGENE CORPORATION AND SUBSIDIARIES
NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The Company paid $338.9 million in cash before milestone payments and may make additional future payments of $300.0 million in contingent regulatory milestone payments. Prior to the acquisition, Gloucester was a privately held biopharmaceutical company that acquired clinical-stage oncology drug candidates with the goal of advancing them through regulatory approval and commercialization. The Company acquired Gloucester to enhance its portfolio of therapies for patients with life-threatening illnesses worldwide.

The purchase price allocation resulted in the following amounts being allocated to the assets acquired and liabilities assumed at the acquisition date based upon their respective fair values summarized below:

	January 15, 2010
Current assets	$ 3,132
Developed product rights	197,000
IPR&D product rights	349,000
Other noncurrent assets	54
Assets acquired	549,186
Contingent consideration	(230,201)
Net deferred taxes	(145,635)
Other liabilities assumed	(21,347)
Net assets acquired	152,003
Goodwill	186,907
Cash paid	$ 338,910

Asset categories acquired in the Gloucester acquisition included working capital, inventory, fixed assets, developed product right assets and in-process research and development, or IPR&D product right assets. Fair values of working capital and fixed assets were determined to approximate book values while the fair value of inventory was determined to be greater than book value.

The fair value of developed product right assets was based on expected cash flows from developed product right sales of ISTODAX® (romidepsin), a novel histone deacetylase (HDAC) inhibitor, which was approved for marketing in the United States in November 2009 by the FDA for the treatment of CTCL in patients who have received at least one prior systemic therapy. Prior to the acquisition, Gloucester was also conducting a registration trial in peripheral T-cell lymphoma, or PTCL, in the United States with an anticipated supplemental New Drug Application filing in 2010 for this indication. Fair values were derived using probability-weighted cash flows. The U.S. CTCL developed product right asset will be amortized over its economic useful life of ten years. The compassionate use right asset will be amortized evenly over the asset s economic useful life of 1.5 years.

The fair value of IPR&D product right assets was based on expected cash flows from sales of ISTODAX® (romidepsin) for the treatment of PTCL, which had not yet achieved regulatory approval for marketing and has no future alternative use. The $349.0 million estimated fair value of IPR&D product rights was derived using probability-weighted cash flows. The fair value was based on expected cash flows from the treatment of PTCL in the United States and PTCL in the European Union, or E.U., based on key assumptions such as estimates of sales and operating profits related to the programs considering their stages of development; the time and resources needed to complete the regulatory approval process for the products and the life of the potential commercialized products and associated risks, including the inherent difficulties and uncertainties in obtaining regulatory approvals.

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NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The U.S. PTCL IPR&D product right asset was assigned a value of $287.0 million based on related future net cash flows estimated using a risk-adjusted discount rate of 14.5% and an anticipated regulatory approval date in mid-2011 with market exclusivity rights expected to continue through 2017. The E.U. PTCL IPR&D product right asset was assigned a value of $62.0 million based on future net cash flows using a risk-adjusted discount rate of 14.5% and an anticipated regulatory approval date in mid-2015 with market exclusivity rights expected to continue through 2021.

The excess of purchase price over the fair value amounts assigned to the assets acquired and liabilities assumed represents the goodwill amount resulting from the acquisition. The Company does not expect any portion of this goodwill to be deductible for tax purposes. The goodwill attributable to the Company s acquisition of Gloucester has been recorded as a noncurrent asset in its Consolidated Balance Sheets and will not be amortized, but is subject to review for impairment in accordance with ASC 350, Goodwill and Other Intangible Assets.

The Company accounts for contingent consideration in accordance with applicable guidance provided within the business combination rules of ASC 805. As part of the Company s consideration for the Gloucester acquisition, it is contractually obligated to pay certain consideration resulting from the outcome of future events. The Company updates its assumptions each reporting period based on new developments and records such amounts at fair value until such consideration is satisfied.

The Gloucester acquisition included two contingent considerations which would obligate the Company to make a $180.0 million cash milestone payment to the former Gloucester shareholders upon the marketing approval for the U.S. PTCL IPR&D product right asset and a $120.0 million cash milestone payment upon the marketing approval for the E.U. PTCL IPR&D product right asset.

The initial fair value of contingent considerations was $230.2 million, consisting of $156.7 million based on the $180.0 million milestone payment upon U.S. PTCL approval and $73.5 million based on the $120.0 million milestone payment upon E.U. PTCL approval. The Company determined the fair value of these obligations to pay additional milestone payments upon approvals based on a probability-weighted income approach. This fair value measurement is based on significant input not observable in the market and thus represents a Level 3 measurement within the fair value hierarchy. The resulting probability-weighted cash flows were discounted using a Baa rated debt yield of 6.15 percent, which the Company believes is appropriate and representative of a market participant assumption. The range of estimated milestone payments is from no payment if both product indications fail to gain market approval to $300.0 million if both product indications gain market approval. The Company classified the contingent considerations as liabilities, which were measured at fair value as of the acquisition date. Fair value is based on the future milestone payments adjusted for the probability of each payment and the time until each payment is expected to be made.

Subsequent to the acquisition date, the Company has measured the contingent consideration arrangement at fair value each period with changes in fair value recognized in operating earnings. Changes pertaining to facts and circumstances that existed as of the acquisition date will be recognized as adjustments to goodwill. Changes in fair values reflect new information about the IPR&D assets and the passage of time. In the absence of new information, changes in fair value will only reflect the passage of time as development work towards the achievement of the milestones progresses and will be accrued based on an accretion schedule. At June 30, 2010, the balance of the contingent consideration was $241.0 million.

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CELGENE CORPORATION AND SUBSIDIARIES
NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

4. Proposed Merger with Abraxis BioScience Inc.

On June 30, 2010, the Company entered into a merger agreement, referred to as the Merger, to acquire Abraxis BioScience Inc., or Abraxis, pursuant to which Abraxis will become a wholly owned subsidiary of the Company. The transaction will be accounted for under the acquisition method of accounting for business combinations under ASC 805. Under the acquisition method of accounting for business combinations, the assets and liabilities of Abraxis will be recorded at their respective fair values on the acquisition date and consolidated with those of the Company. For the year ended December 31, 2009, Abraxis reported total revenues of $359.1 million and total assets of $1.068 billion.

Each share of common stock of Abraxis, or Abraxis Common Stock, issued and outstanding, other than treasury shares of Abraxis will be converted into the right to receive (i) an amount in cash, without interest, equal to $58.00, (ii) 0.2617, or the exchange ratio, of a share of common stock of Celgene, or Celgene Common Stock, and (iii) one contingent value right, or CVR, issued by the Company. A holder of a CVR is entitled to receive a pro rata portion of cash payments that the Company is obligated to pay to all holders of CVRs, which is determined by achievement of certain net sales and U.S. regulatory approval milestones. No fractional shares of Celgene Common Stock will be issued in the Merger, and Abraxis stockholders will receive cash in lieu of fractional shares, if any, of Celgene Common Stock.

A preliminary estimate of the total consideration related to the acquisition of Abraxis is $3.2 billion, including cash payments of $2.4 billion, shares of Celgene Common Stock of $540.0 million and the issuance of CVRs valued at $300.0 million. The Company does not require financing for the Merger. However, the Company is considering and may pursue financing arrangements on terms and conditions favorable to it, including, without limitation, an offering of debt securities, to maintain financial flexibility.

The boards of directors of each of Abraxis and Celgene have unanimously approved the Merger and merger agreement. Pursuant to the merger agreement, completion of the Merger is subject to customary closing conditions, including approval of the Merger by the stockholders of Abraxis, the expiration or termination of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act, the effectiveness of the Company s Registration Statement on Form S-4 filed on July 29, 2010, covering shares of Celgene Common Stock and CVRs to be issued in the Merger, and the approval of such shares of Celgene Common Stock for listing, subject to notice of issuance, on NASDAQ. In addition, the merger agreement contains customary representations, warrants and covenants made by each of Abraxis and the Company. The Merger is expected to be completed in the Company s third or fourth quarter of 2010 following approval of a majority of Abraxis shareholders. As a result of the announced merger agreement with Abraxis, several shareholder lawsuits have been filed, which the Company believes are without merit.

Through June 30, 2010, the Company has expensed $1.9 million of costs relating to legal, financial and accounting advisory services performed in connection with the proposed Merger with Abraxis, which are included in acquisition related charges in the accompanying Statement of Consolidated Operations.

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CELGENE CORPORATION AND SUBSIDIARIES
NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

5. Earnings Per Share

Basic earnings per share is computed by dividing net income by the weighted-average number of common shares outstanding during the period. Diluted earnings per share is computed by dividing net income by the weighted-average number of common shares outstanding during the period increased to include all additional common shares that would have been outstanding assuming potentially dilutive common shares resulting from option exercises, restricted stock units, warrants and other incentives had been issued and any proceeds thereof used to repurchase common stock at the average market price during the period. The assumed proceeds used to repurchase common stock are the sum of the amount to be paid to the Company upon exercise of options, the amount of compensation cost attributed to future services and not yet recognized and, if applicable, the amount of excess income tax benefit that would be credited to paid-in capital upon exercise.

	Three-Month Periods Ended June 30,		Six-Month Periods Ended June,	
	2010	2009	2010	2009