

Ensco plc
Form 8-K
January 29, 2019

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **January 28, 2019**

Ensco plc

(Exact name of registrant as specified in charter)

England and Wales
(State or other jurisdiction of incorporation)

98-0635229
(I.R.S. Employer Identification No.)

1-8097
(Commission File No.)

6 Chesterfield Gardens
London, England W1J 5BQ
(Address of Principal Executive Offices)

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(Zip Code)

Registrant's telephone number, including area code: **44 (0) 20 7659 4660**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined by Rule 405 of the Securities Act of 1933 (17 CFR 230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR 240.12b-2). Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 1.01 Entry into a Material Definitive Agreement.

Amendment to the Transaction Agreement

On January 28, 2019, Ensco plc (the **Company** or **Ensco**) and Rowan Companies plc (**Rowan**) entered into a Deed of Amendment No. 1 (the **Amendment**) to the Transaction Agreement, dated as of October 7, 2018 (the **Transaction Agreement**), pursuant to which the Company has agreed to acquire the entire issued and to be issued share capital of Rowan, which acquisition (the **Transaction**) is expected to be implemented by way of a scheme of arrangement to be undertaken by Rowan under Part 26 of the UK Companies Act 2006 (**Scheme of Arrangement**) (provided that the parties reserve the right under the Transaction Agreement to effect the acquisition by way of a contractual takeover offer as defined in section 974 of the UK Companies Act 2006 in certain circumstances). The Amendment increased the exchange ratio in connection with the Transaction from 2.215 to 2.750 new Ensco Class A ordinary shares, nominal value \$0.10 per share (the **Ensco ordinary shares**), for each Rowan Class A ordinary share, nominal value of \$0.125 per share (the **Rowan ordinary shares**), that is subject to the terms of the Scheme of Arrangement.

The foregoing description of the Amendment is a summary, does not purport to be complete, and is qualified in its entirety by reference to the full text of the Amendment, a copy of which is attached as Exhibit 2.1.

Irrevocable Undertaking

On January 28, 2019, the Company received an agreement of irrevocable undertaking (the **Irrevocable Undertaking**) from Odey Asset Management LLP (**Odey**) and certain funds for which Odey is investment manager, under which Odey agreed to vote their Ensco ordinary shares and Rowan ordinary shares in favor of all resolutions to be proposed at the general meeting of shareholders of Ensco and Rowan and the court-convened meeting of Rowan shareholders, as applicable, that may reasonably have a positive impact on the Transaction or as otherwise instructed by Ensco. The Irrevocable Undertaking represents 422,500 Ensco ordinary shares, or 0.1% of the outstanding Ensco ordinary shares as of December 31, 2018, and 11,380,635 Rowan ordinary shares, or 9.0% of the outstanding Rowan ordinary shares as of December 31, 2018. The Irrevocable Undertaking will cease to be binding if the consideration of Ensco ordinary shares for each Rowan ordinary share is reduced below 2.750 Ensco ordinary shares for each Rowan ordinary share.

The foregoing description of the Irrevocable Undertaking is a summary, does not purport to be complete, and is qualified in its entirety by reference to the full text of the Irrevocable Undertaking, a copy of which is attached as Exhibit 10.1 hereto.

Item 7.01 Regulation FD Disclosure.

On January 29, 2019, the Company issued a press release announcing the entry into the Amendment and the Irrevocable Undertaking. The press release is attached hereto as Exhibit 99.1 and is incorporated into this Item 7.01 by reference.

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In accordance with General Instruction B.2 of Form 8-K, the information set forth in this Item 7.01 and the attached Exhibit 99.1 shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the ***Exchange Act***), or otherwise subject to the liabilities of that section, nor shall such information be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit Number	Description
2.1	<u>Deed of Amendment No. 1 to Transaction Agreement, dated as of January 28, 2019, by and between Ensco plc and Rowan Companies plc.</u>
10.1	<u>Agreement of Irrevocable Undertaking by Odey Asset Management LLP, dated as of January 28, 2019, in favor of Ensco plc.</u>
99.1	<u>Press Release dated January 29, 2019.</u>

* * *

Forward-Looking Statements

Statements included in this document regarding the proposed transaction, benefits, expected synergies and other expense savings and operational and administrative efficiencies, opportunities, timing, expense and effects of the transaction, financial performance, accretion to cash flows, revenue growth, credit ratings or other attributes of Ensco following the completion of the transaction and other statements that are not historical facts, are forward-looking statements (including within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act of 1933, as amended (the "Securities Act")). Forward-looking statements include words or phrases such as anticipate, believe, contemplate, estimate, expect, intend, plan, project, could, may, might, should, will, or words of similar import. These statements involve risks and uncertainties including, but not limited to, actions by regulatory authorities, rating agencies or other third parties, actions by the respective companies' security holders, costs and difficulties related to integration of Ensco and Rowan, delays, costs and difficulties related to the transaction, market conditions, and Ensco's financial results and performance following the completion of the transaction, satisfaction of closing conditions, ability to repay debt and timing thereof, availability and terms of any financing and other factors detailed in the risk factors section and elsewhere in Ensco's and Rowan's Annual Report on Form 10-K for the year ended December 31, 2017 and their respective other filings with the Securities and Exchange Commission (the "SEC"), which are available on the SEC's website at www.sec.gov. Should one or more of these risks or uncertainties materialize (or the other consequences of such a development worsen), or should underlying assumptions prove incorrect, actual outcomes may vary materially from those forecasted or expected. All information in this document is as of today. Except as required by law, both Ensco and Rowan disclaim any intention or obligation to update publicly or revise such statements, whether as a result of new information, future events or otherwise.

Important Additional Information Regarding the Transaction Will Be Filed With the SEC

In connection with the proposed transaction, Ensco and Rowan have filed a joint proxy statement on Schedule 14A with the SEC. Ensco and Rowan intend that the proposed transaction will be implemented by means of a court-sanctioned scheme of arrangement between Rowan and Rowan's shareholders under the UK Companies Act 2006, as amended, in which case the issuance of Ensco's ordinary shares in the proposed transaction would not be expected to require registration under the Securities Act, pursuant to an exemption provided by Section 3(a)(10) under the Securities Act. In the event that Ensco determines, with Rowan's consent, to structure the transaction as an offer or otherwise in a manner that is not exempt from the registration requirements of the Securities Act, Ensco will file a registration statement with the SEC containing a prospectus with respect to Ensco's ordinary shares that would be issued in the proposed transaction. INVESTORS AND SECURITY HOLDERS OF ENSCO AND ROWAN ARE ADVISED TO CAREFULLY READ THE JOINT PROXY STATEMENT (WHICH INCLUDES AN EXPLANATORY STATEMENT IN RESPECT OF ANY SCHEME OF ARRANGEMENT OF ROWAN, IN ACCORDANCE WITH THE REQUIREMENTS OF THE UK COMPANIES ACT 2006) AND ANY REGISTRATION STATEMENT/PROSPECTUS (INCLUDING ALL AMENDMENTS AND SUPPLEMENTS THERETO) WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT THE TRANSACTION, THE PARTIES TO THE TRANSACTION AND THE RISKS ASSOCIATED WITH THE TRANSACTION. A definitive joint proxy statement has been and any registration statement/prospectus, as applicable, will be sent to security holders of Ensco and Rowan in connection with the Ensco and Rowan shareholder meetings. Investors and security holders may obtain a free copy of the joint proxy statement (when available), any registration statement/prospectus, and other relevant documents filed by Ensco and Rowan with the SEC from the SEC's website at www.sec.gov. Security holders and other interested parties will also be able to obtain, without charge, a copy of the joint proxy statement, any registration statement/prospectus, and other relevant documents (when available) by directing a request by mail or telephone to either Investor Relations, Ensco plc, 5847 San Felipe, Suite 3300, Houston, Texas 77057, telephone 713-789-1400, or Investor Relations, Rowan Companies plc, 2800 Post Oak Boulevard, Suite 5450, Houston, Texas 77056, telephone 713-621-7800. Copies of the documents filed by Ensco with the SEC will be available free of charge on Ensco's website at www.enscoplc.com under the tab "Investors". Copies of the documents filed by Rowan with the SEC will be available free of charge on Rowan's website at www.rowan.com/investor-relations.

Participants in the Solicitation

Ensco and Rowan and their respective directors, executive officers and certain other members of management may be deemed to be participants in the solicitation of proxies from their respective security holders with respect to the transaction. Information about these persons is set forth in the joint proxy statement filed by Ensco and Rowan with the SEC on December 11, 2018, respectively, and subsequent statements of changes in beneficial ownership on file with the SEC. Security holders and investors may obtain additional information regarding the interests of such persons, which may be different than those of the respective companies' security holders generally, by reading the joint proxy statement, any registration statement and other relevant documents regarding the transaction, which will be filed with the SEC.

No Offer or Solicitation

This document is not intended to and does not constitute an offer to sell or the solicitation of an offer to subscribe for or buy or an invitation to purchase or subscribe for any securities or the solicitation of any vote in any jurisdiction pursuant to the proposed transaction or otherwise, nor shall there be any sale, issuance or transfer of securities in any jurisdiction in contravention of applicable law. Subject to certain exceptions to be approved by the relevant regulators or certain facts to be ascertained, the public offer will not be made directly or indirectly, in or into any jurisdiction where to do so would constitute a violation of the laws of such jurisdiction, or by use of the mails or by any means or instrumentality (including without limitation, facsimile transmission, telephone and the internet) of interstate or foreign commerce, or any facility of a national securities exchange, of any such jurisdiction.

Service of Process

Ensco and Rowan are incorporated under the laws of England and Wales. In addition, some of their respective officers and directors reside outside the United States, and some or all of their respective assets are or may be located in jurisdictions outside the United States. Therefore, investors may have difficulty effecting service of process within the United States upon those persons or recovering against Ensco, Rowan or their respective officers or directors on judgments of United States courts, including judgments based upon the civil liability provisions of the United States federal securities laws. It may not be possible to sue Ensco, Rowan or their respective officers or directors in a non-U.S. court for violations of the U.S. securities laws.

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 hereunto duly authorized.

Ensco plc

Date: January 29, 2019

/s/ Michael T. McGuinty
Michael T. McGuinty
Senior Vice President - General Counsel and Secretary