



#34678

## Back to Infomemo Search

**DATE:** MAY 23, 2014

**SUBJECT:** FOREST LABORATORIES, INC. (ELECTION MERGER) -  
ANTICIPATED ADJUSTMENT  
OPTION SYMBOL: FRX  
NEW SYMBOL: ACT2  
FUTURES SYMBOLS: FRX1C/FRX1D  
NEW SYMBOLS: FRX2C/FRX2D  
DATE: ??? (ELECTION DEADLINE: TBD)

On June 17, 2014, Shareholders of Forest Laboratories, Inc. (FRX) will vote concerning the proposed merger with Actavis plc (ACT).

### The Merger: Aggregate Terms

If the merger is approved and consummated, FRX Common Shares will be converted so that approximately 99 million Actavis ordinary shares and \$7,096,000,000 Cash are paid out to FRX shareholders.

### The Merger: Individual Share Elections

Within the terms of the aggregate merger, individual FRX Shareholders may:

- Elect to receive 0.3306 Actavis (ACT) Ordinary Shares plus \$26.04 Cash per each FRX Common Share (Standard Election). OR,
  - Elect to receive 0.4723 Actavis (ACT) Ordinary Shares per each FRX Common Share (Stock Election), subject to proration. OR,
  - Elect to receive \$86.81 Cash for each FRX Common Share (Cash Election), subject to proration. OR,
  - Register no preference by not making an election (Non-Electing).
- Under the terms of the election, shares which are not subject to an effective election will be deemed to have elected to receive the Standard Election, as stated in the FRX/ACT Joint Proxy Statement/ Prospectus dated May 5, 2014.

Elections must be submitted to the exchange agent who is yet to be determined. The election deadline will be 5:00 p.m., Eastern Time, on the twenty-fifth day following the Election Form Mailing Date. FRX Shareholders must observe all terms and conditions for the election as specified in the FRX/ACT Joint Proxy Statement/Prospectus. **It is not yet known if FRX shares may be delivered pursuant to an election under "Notices of Guaranteed Delivery."** In all cases, Call option holders exercising in order to obtain stock for an election must exercise in sufficient time to be able to make valid delivery pursuant to the election procedures.

### The Merger Consideration: Prorations

Both Stock and Cash Elections will be subject to proration as described in the FRX/ACT Joint Proxy Statement/Prospectus dated May 5, 2014.

### **CONTRACT ADJUSTMENT**

DATE:	Effective the opening of the business day after the merger is consummated. Contract adjustment is anticipated to occur in the second half of 2014.
OPTION SYMBOL:	FRX changes to ACT2
STRIKE DIVISOR:	1
CONTRACT MULTIPLIER:	1
NEW MULTIPLIER:	100 (e.g., for premium or strike price extensions, 1.00 equals \$100)
NEW DELIVERABLE PER CONTRACT:	1) 33 Actavis plc (ACT) Ordinary Shares 2) Cash in lieu of 0.06 fractional ACT shares 3) \$2,604.00 Cash
CUSIP:	ACT: G0083B108

### **PRICING**

Until the cash in lieu amount is determined, the underlying price for ACT2 will be determined as follows:

$$\text{ACT2} = 0.3306 (\text{ACT}) + 26.04$$

### **DELAYED SETTLEMENT**

The ACT component of the ACT2 deliverable will settle through National Securities Clearing Corporation (NSCC). OCC will delay settlement of the cash portion of the ACT2 deliverable until the cash in lieu of fractional ACT Shares is determined. Upon determination of the cash in lieu amount, OCC will require delivery of the appropriate cash amount.

### **Important Exercise Considerations**

Holders of FRX Call options who wish to make their own elections with respect to FRX shares received through exercise (for example, to receive a consideration other than the Standard Election consideration) bear sole responsibility in determining when to exercise their options to permit a valid election. After the merger is consummated and the contract adjustment described above is effected, adjusted FRX options will no longer call for the delivery of FRX shares upon exercise. Call option holders will receive upon exercise (and Put holders deliver upon exercise) the aggregate Standard Election merger consideration (on a per contract basis).

### **Futures Contract Adjustment**

DATE:	Effective the opening of the business day after the merger is consummated. Contract adjustment is anticipated to occur in the second half of 2014.
FUTURES SYMBOLS:	FRX1C changes to FRX2C FRX1D changes to FRX2D

NUMBER OF  
CONTRACTS: No Change

MULTIPLIER: 100 (e.g., a premium of 1.50 yields \$150)

NEW DELIVERABLE  
PER CONTRACT: 1) 33 Actavis plc (ACT) Ordinary Shares  
2) Cash in lieu of 0.06 fractional ACT shares  
3) \$2,604.00 Cash

CUSIP: ACT: G0083B108

## **PRICING**

Until the cash in lieu amount is determined, the underlying price for the FRX2C and FRX2D Futures contract deliverables, expressed in term of current market value, would be calculated as follows:

$$\text{FRX2C} = 0.3306 (\text{ACT}) + 26.04$$

Please note that the valuation would apply only to the FRX2C and FRX2D deliverable in terms of current market value of the deliverable securities. The resulting price would not be equivalent to the daily settlement price of a futures contract month, whose determination would include cost of money carrying charges, adjustment for dividends, and other factors.

## **DELAYED SETTLEMENT**

The ACT component of the FRX2C/FRX2D deliverable will settle through National Securities Clearing Corporation (NSCC). OCC will delay settlement of the cash portion of the FRX2C/FRX2D deliverable until the cash in lieu of fractional ACT Common Shares is determined. Upon determination of the cash in lieu amount, OCC will require delivery of the appropriate cash amount.

## **Delivery Settlement and Protect Provisions**

Option contracts which are exercised, and physically-settled security futures contracts which mature, will require the settlement of all component securities included in the contract deliverable at the time of the futures contract maturation or option contract exercise, including rights, warrants, or similar instruments. Additional FRX entitlements (such as due bills, eligibility to participate in tender offers, elections, etc.) may also automatically attach to securities deliverable upon physically-settled futures contract maturity or option exercise. Conversely, securities not included in the contract deliverable at the time of the option exercise or futures contract maturity, or other entitlements not associated with the underlying deliverable securities, may preclude holders of long futures contracts from realizing the benefit of such entitlements. For example, if a physically-settled security futures underlying security is the subject of a tender offer, exchange offer, or similar event which expires *before* the futures contract reaches its maturity, the securities due to long futures holders upon maturity *will not* be eligible for participation in the tender/exchange offer. Conversely, if such tender offer, exchange offer or similar event expires *after* the futures contract matures, securities deliverable to long futures holders *will* be eligible for participation in these events.

Except in unusual cases, securities deliverable as a result of equity option exercise or the maturity of physically-settled security futures are settled through National Securities Clearing Corporation (NSCC).

Rights and obligations of Members with respect to securities settling at NSCC as a result of an option exercise or assignment or a physically-settled security future delivery or receipt obligation are governed by the rules of NSCC. NSCC has its own rules which enable purchasers of securities to protect themselves for value which may be lost if timely delivery is not made to them of securities subject to specific

deadlines, such as the expiration of a tender offer, rights subscription, election, or similar event. These rules are generally called protect or liability notice procedures, and are intended to protect purchasers by binding the delivering parties to liability if such value is lost because timely delivery is not effected. Purchasers of securities must observe the rules and procedures of NSCC to avail themselves of such "protect" provisions of NSCC. Questions regarding these provisions should be addressed to NSCC.

### **Special Risks**

Writers of call options and holders of short positions in physically-settled security futures at maturity who are uncovered with respect to deliverable securities subject to deadlines or cut-off times (such as expirations of tender offers, rights subscriptions, elections, or similar events) should be aware of a risk associated with the timing of their possible assignments or physically-settled security futures delivery obligations: Equity option exercise settlement and settlement of physically-settled security futures delivery obligations normally occurs 3 business days after the option exercise date or the security-futures maturity date. An uncovered call writer or uncovered short futures holder who has an obligation to deliver, and who waits until after assignment or futures maturity to effect purchase of the underlying security, may not be able to effect timely delivery by a regular-way purchase (3 business-day settlement) or call option exercise (3 business-day settlement after exercise). Such uncovered writer or short futures holder may nevertheless be subject to liability under the protect provisions of NSCC (see above) with respect to his delivery obligation, because he cannot make timely delivery. Additionally, Cash Markets (same-day, or less-than-3-business-day settlement) may not be available, or may be expensive for buyers of the underlying security.

### **DISCLAIMER**

This Information Memo provides an unofficial summary of the terms of corporate events affecting listed options or futures prepared for the convenience of market participants. OCC accepts no responsibility for the accuracy or completeness of the summary, particularly for information which may be relevant to investment decisions. Option or futures investors should independently ascertain and evaluate all information concerning this corporate event(s).

The determination to adjust options and the nature of any adjustment is made by a panel of The OCC Securities Committee pursuant to OCC By-Laws, Article VI, Sections 11 and 11A. The adjustment panel is comprised of representatives from OCC and each exchange which trades the affected option. The determination to adjust futures and the nature of any adjustment is made by OCC pursuant to OCC By-Laws, Article XII, Sections 3, 4, or 4A, as applicable. For both options and futures, each adjustment decision is made on a case by case basis. Adjustment decisions are based on information available at the time and are subject to change as additional information becomes available or if there are material changes to the terms of the corporate event(s) occasioning the adjustment.

**CATEGORY:        CONTRACT ADJUSTMENT**

**For questions regarding this memo, call 1-888-678-4667 or email [investorservices@theocc.com](mailto:investorservices@theocc.com).**